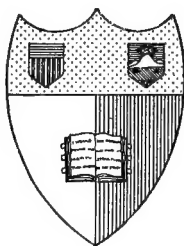


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Testimony taken before the Senate Commit



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TESTIMONY

TAKEN BEFORE THE

SENATE COMMITTEE ON BANKS

AND THE

SENATE OF THE STATE OF NEW YORK,

IN REFERENCE TO CHARGES PREFERRED BY

WILLIAM J. BEST,

RECEIVER, ETC.,

EDWARD MALLON AND JOHN MACK,

AGAINST

DE WITT C. ELLIS,

SUPERINTENDENT OF THE BANKING DEPARTMENT OF THE STATE OF NEW YORK.

ALSO

JOURNAL OF THE SENATE.

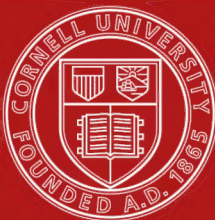
PRINTED UNDER THE DIRECTION OF THE CLERK OF THE SENATE, PURSUANT TO
RESOLUTION OF THE SENATE, PASSED AT SARATOGA, AUGUST 17, 1877.

VOL. II.

ALBANY:
WEED, PARSONS & COMPANY, PRINTERS.

1878.

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SCHEDULE B.

STOCK INVESTMENTS.

Numerate stocks in the following order, and give footings to each class, viz. :

1. United States stocks and interest bearing treasury notes or certificates.
2. New York State stocks.
3. Stocks of other States.
4. Stocks or bonds of cities in this State.
5. Stocks or bonds of counties.
6. Stocks or bonds of towns.
7. Stocks or bonds of villages.
8. Any other stocks or bonds.

Name of stock.	Rate of interest.	Cost.	Par value.	Estimated m'rk't value.
Buffalo city bonds.....	Seven.	\$14,355	\$14,500	\$14,790
Town of Mamaroneck bonds.....	Seven.	7,760	8,000	7,940
		\$22,115	\$22,500	\$22,730

SCHEDULE C.

PUBLIC STOCKS UPON WHICH MONEY HAS BEEN LOANED.

Name of stock.	Par value.	Amount loaned thereon.	At wh ^a rate of interest.
U. S. bond 6's, 1881.....	\$1,000	\$1,000	Seven.
U. S. bond 5-20.....	100	100	Seven.
Jersey City bonds.....	16,000		
Brooklyn city bonds.....	2,000		
New York city bonds.....	3,000		
Ulster county, N. Y., bonds.....	1,000		
Peekskill, N. Y., bonds, "water".....	3,000		
Town of Eastchester, Westchester county, N. Y.....	5,000	22,140	Seven.
Jersey City bonds.....	3,500	3,000	Seven.
Elizabeth City, N. J., bonds.....	1,000 }	Since paid.	
Camden and Amboy railroad.....	3,200 }	3,780	Seven

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	At what rate of interest.
Ninth Ward Bank.....	8th av. cor. 23d st.	\$7,802 59	Four.
Hanover National Bank.....	Nassau street....	3,479 27	Four.

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING.

Investments.....	\$.....	\$.....
United States stocks.....	.....	.....
New York State stocks.....	.....	.....
Stocks of other States.....	.....	.....
Bonds of counties, cities and towns of this State, .....	.....	615 00
Other stocks and bonds.....	.....	.....
Real estate .....	.....	.....
Totals.....	<u>\$.....</u>	<u>\$.....</u>

Difference*.....	\$615 00
Loans, deposits, investments, or assets of every description not heretofore enumerated, viz.:†	
Furniture in bank building, lease, fixtures, safe.....	7,148 96
Interest accrued.....	3,462 39
Postage and revenue stamps.....	318 32
Rent paid to February 1, 1875.....	108 33
	<u>\$11,653 00</u>

Report of the Trades' Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1875, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed	\$25,000 00
2. Stock investments, as per Schedule B, hereto annexed,	22,115 00
3. Amount loaned on public stocks, as per Schedule C, hereto annexed	30,020 00
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.....	.....
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	.....

* If cost exceeds market value the difference should be entered under the head, "Other liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will, of course, be just to include in this schedule the interest due, though unpaid, on investments.

6. Real estate, cost \$; market value, \$; standing on books, at \$	
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	\$11,281 86
8. Cash on hand not deposited in bank.....	6,514 57
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed	11,653 00
	<hr/>
	\$106,584 43
	<hr/>

Liabilities.

1. Amount due depositors	\$104,650 74
Principal.....	\$101,827 73
Interest credited for the first of January, 1875	2,823 01
2. Other liabilities, viz.:	
3. Excess of assets over liabilities.....	1,933 69
	<hr/>
	\$106,584 43
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1875.....	610
2. Number of accounts opened during the year 1874....	760
3. Number of accounts closed during the year 1874	424
4. Number of accounts opened since organization.....	1,405
5. Amount deposited, not including interest credited, during 1874.....	\$342,910 53
6. Amount deposited, including interest credited, for the same period.....	347,511 34
7. Amount withdrawn during the year 1874.....	273,207 21
8. Amount of interest or profits earned* during the year 1874	5,434 03
9. Amount of interest credited to depositors for the same period	4,601 32
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited: June thirty, \$1,586.48; December thirty-one, \$2,823.01; credited at other periods during the year, \$191.32.	
11. Rate per cent of dividends or interest to depositors during the past year, four and seven per cent.	

* If amount received is reported, strike out "or earned;" if amount earned is reported, strike out "received or."

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Alex. M. Lesley, president, and I. M. Freese, secretary, of the Trades' Savings Bank, an incorporated institution for savings, located and doing business at No. 275 West Twenty-third street, in the city of New York, being duly and severally sworn, each for himself saith, that the foregoing report and the Schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the first day of January, one thousand eight hundred and seventy-five, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

ALEX. M. LESLEY, *President.*

I. M. FREESE, *Secretary.*

Severally subscribed and sworn by }
both deponents, the 22d day of }
January, 1875, before me. }

J. HOWARD LIVINGSTON,

Notary Public, City of New York.

Mr. Olmstead called for the report of the examination of the Trades' Savings Bank, made by Geo. W. Reid of date November 12, 1875, and filed in the department December 2, 1875.

The witness produced the report, which, with accompanying papers, was read in evidence as follows:

BANK DEPARTMENT, }
STATE OF NEW YORK. }

Pursuant to the provisions of chapter 371 of the Laws of 1875, I do hereby appoint George W. Reid to examine into the condition, working and affairs generally of the Trades' Savings Bank, New York city, and report thereon to me in detail as soon as practicable.

Given under my hand and official seal at Albany, this 25th day of October, 1875.

D. C. ELLIS,

Superintendent.

Hon. D. C. ELLIS, *Superintendent Bank Department:*

Sir — The undersigned, appointed to examine into the condition, working, etc., of the Trades' Savings Bank of New York, reports:

It will be seen from the annexed statement of assets and liabilities that there is a deficiency of assets of \$6,538.29, and of income of \$1,425.75.

The house in Beach street is now being turned into a "flat-house" at an expense of \$3,000 or \$4,000 from which a rent of \$2,500 is expected.

One of the loans on bond and mortgage, and one on "call," have the appearance of having been for the benefit of the president, although this is denied by the secretary.

Respectfully submitted.

GEO. W. REID.

Examined November 12, 1875.

ASSETS AND LIABILITIES of the Trades' Savings Bank of New York upon the 12th day of November, 1875, as found upon examination made by the direction and authority of the superintendent of the Bank Department.

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages	7	.....	....	.....	\$34,000 00
Call loans	7	.....	....	.....	15,075 00
Buffalo City bonds	7	\$14,500 00	107	\$15,515 00	
Long Island City bonds	7	28,000 00	100	28,000 00	43,515 00
Real estate bid in a foreclosure .....	....	.....	....	.....	13,353 29
Safe and fixtures .....	....	.....	....	.....	4,000 00
Cash in safe .....	....	.....	....	3,817 14	
Cash Grocers' Bank	4	.....	....	33,329 67	
Cash Island City Bank	4	.....	....	3,259 11	
Cash Hanover National Bank .....	....	.....	....	741 40	
Interest accrued .....	....	.....	....	.....	41,147 32
					2,805 00
LIABILITIES.					
Due depositors .....	....	.....	....	\$157,813 90	\$153,895 61
Interest accrued .....	....	.....	....	2,620 00	
Deficiency of assets .....	....	.....	....	.....	160,433 90
					6,538 29
INCOME.					
Bonds and mortgages	7	34,000 00	....	\$2,380 00	
Call loans	7	15,075 00	....	1,055 25	

City bonds	7	42,500 00	....	2,975 00	
Cash in bank	4	37,300 00	....	1,492 00	
					7,902 25
CHARGES.					
Interest to depositors .....	....	.....	....	\$7,200 00	
Salaries .....	....	.....	....	988 00	
Rent.....	....	.....	....	750 00	
Internal revenue tax.....	....	.....	....	240 00	
All other charges.....	....	.....	....	150 00	
					9,328 00
Deficiency of income .....	....	.....	....	.....	\$1,425 75

EXAMINATION BLANK, No. 4.

Sundry items of assets, the liabilities, also other statistics of the Trades' Savings Bank, as found upon examination made November 12, 1875.

Real estate owned ; location ; dimensions of ground ;
dimensions of building.

Cost of ground	\$
Cost of building	
Estimated market value of real estate	

Amount of cash on hand :

In vault	\$3,490 35
----------------	------------

(To be verified by examiner's count.)

In banks or trust companies, viz. :

Grocers' Bank	\$33,329 67
Island City Bank	3,259 11
Hanover National Bank	741 40

(To be verified by certificates of bank officers.)

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz. :

On bonds and mortgages.....	\$880 00
On stocks (exclusive of those in which interest accrued forms part of the market value and is so extended) ..	1,215 00
On call loans	310 00
On deposits in bank.....	400 00
	<u>\$2,805 00</u>

What amount of the above is more than three months
overdue \$
Rents due and collectible or accrued to date.....

Any other properties constituting assets not included above nor in any other list furnished, viz.: House in Beach street, New York, \$13,353.29; undergoing alterations to a tenement-house, for which \$2,500 or \$3,000 is expected for rent.

Annual rental of real estate owned or leased at current
rates..... \$

Rate of interest on call loans seven per cent ; rate of interest on deposits in bank, etc., four per cent.

Interest credited January 1, 187 , \$; deposits less interest, that date, \$; interest credited July 1, 1874, \$1,586.48 ; deposits less interest, that date, \$58,200.16 ; interest credited January 1, 1875, \$2,823.01 ; deposits less interest, that date, \$101,827.73 ; interest credited July 1, 1875, \$3,521.49 ; deposits less interest, that date, \$151,661.96 ; amount due depositors, this date, \$157,813.90 ; estimate of interest accrued to depositors this date, \$2,620.

Any other debts or liabilities due or accrued this date, not included above, viz.:

CONDUCT OF BUSINESS.

Regular meetings of the board ? First Tuesday, each month.

Average attendance, 1875 ? Eight to ten.

Attendance of officers during business hours ? All the officers.

Attendance of trustees ? Occasional.

Application for loans on bond and mortgages, how made ? To secretary.

To whom referred ? Finance committee.

Report on value of property, by whom made ? Some member.

To whom ? Board.

In what form ? Writing.

Are applications for loans on bond and mortgage filed or otherwise preserved ? Yes.

Ditto of reports concerning value of property ? Yes.

Action by vote or otherwise ; by whom necessary before money is advanced on bond and mortgage ? Board.

Ditto of stock investments ? Finance committee.

Ditto of call loans ?

Ditto of deposits in bank ? Board.

How or by whom are the companies designated in which insurance as security for loans on bond and mortgage is effected ? Mortgagee.

Is the opinion of your counsel ever taken concerning the legality of investments, otherwise than on bond and mortgage ? Yes.

Opinion in writing or oral ? Oral.

At what period does interest on deposits commence ? From date.

During what time must a deposit remain to be entitled to interest ? To dividend day.

By what form of action is the rate fixed or declared ? Board.

Is interest declared, or fixed, or promised in advance, or only at expiration of interest period ? Expiration.

Q. Is it based upon the ascertained profits or earnings of the inter-

est period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily? Arbitrarily.

Who is the responsible officer in charge of the conduct of business during business hours? Private secretary.

Miscellaneous facts relating to the condition and conduct of business of the Trades' Savings Bank, in the city of New York, as found upon examination made by direction of the Superintendent of the Bank Department, November 12, 1875.

ORGANIZATION.

Charter number of trustees? Fifteen.

Number of vacancies? None.

Number constituting quorum? Seven.

Officers elected or appointed from trustees? President, two vice-secretary and assistant secretary.

Officers, clerks and other employees not members of the board? Teller.

Standing or regular committees of the board, their powers and duties? Finance committee.

EXPENDITURES.

Salaries, current rate, viz.: Assistant secretary, \$780; teller, \$208. Other expenses, basis of 1875: Rent, \$750; internal revenue tax, \$240.

Other taxes: Furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank books, fuel, lights and attendance, other expenses, \$150.

Hours during which bank is open? Daily, from nine to eight P. M.

Who receive and pay money over the counters? Teller.

What memoranda or entries made by receiving teller of transactions? Journal and pass-book.

What ditto by paying teller? Receipt in book or clerk's pass-book.

Who revises and compares these with cash at close of business? Assistant secretary.

How often revised and checked or compared by any other officers or committee? Twice a year.

In whose custody, or accessible to whom, are the securities of the bank kept? President or secretary.

How often and by whom examined? Twice a year by finance committee.

How is this correctness verified?

At these examinations is the cash actually counted? Yes.

How is the amount of cash deposited in bank ascertained by them? Bank books.

Reports and statements of total cash received and disbursed made by whom?

To whom?

How often?

In what form?

How and by whom verified?

Ditto of assets and liabilities? Monthly.

Bonds of officers, etc.; viz.: Secretary, \$20,000; assistant secretary, \$5,000; teller, \$5,000.

In whose custody? President.

Number of open accounts? Eight hundred and eleven.

Largest single? Nearly \$5,000.

Number exceeding \$5,000? None.

Average? One hundred and ninety-eight dollars and six cents.

Are depositors allowed to draw checks upon their accounts? About fifty or sixty are.

By whom must the checks of the institution be signed? President and secretary, to order of assistant secretary.

Has any officer or trustee, to your knowledge, or according to your belief, ever received any commission, or part of commission, or any bonus, from any person on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? No.

Mr. Olmstead here called attention to the letter of superintendent Ellis to Alexander M. Leslie, on page 289 of the printed case, which he read as follows:

ALBANY, *December 25, 1875.*

ALEX. M. LESLIE, *President Trades' Savings Bank, New York City:*

DEAR SIR — The report of the examination of your bank shows that there is a deficiency of assets with which to meet its liabilities. The settled policy of the department is to close up all such banks unless the deficiency is made good at once. Your immediate attention is called to this matter with the hope that you will be able to put your institution on a sound footing before the first of January.

D. C. ELLIS,
Superintendent.

MR. OLMSTEAD [to the witness] — Have you, among your papers, a copy of a telegram sent by Mr. Ellis to Mr. Freese about the end of December?

THE WITNESS — I have a telegram from Mr. Freese, dated December thirty-first.

Mr. OLMSTEAD — We have that; now, is there a telegram previous to that, from Mr. Ellis to Mr. Freese, which is referred to in that telegram from Freese; it appears from this telegram (printed case, page 290) that a previous telegram had been received by Freese from Mr. Ellis; we would like to have that telegram, or a copy of it.

The WITNESS — We keep no record in the office of telegrams sent out.

Mr. OLMSTEAD — Then I content myself with reading this telegram on page 290 of the printed case; now, I call for the report of the bank to the department of date January 1, 1876.

The witness produced the paper, which was read in evidence. [See printed case, page 277.]

Senator SCHOONMAKER — I would suggest for the consideration of the counsel on either side, that it would materially aid Senators if the counsel, when about to introduce in evidence any report or schedule, would state briefly what point or points are intended to be established by it, without reading all the items in detail.

Mr. MCGUIRE — [of counsel for the respondent] — I suggest, Mr. President, that that would be hardly fair to the respondent, and it saves no time, because it requires counsel to make statements exceeding in length of time the reading of the papers.

The PRESIDENT — It is not necessary to discuss it; the course suggested will not be taken unless with the consent of counsel.

Mr. CHAPMAN — As I understand the suggestion of the Senator from the Fourteenth, it is, that the counsel shall call the attention of the Senate to the specific point sought to be established by a document; not that they shall reason upon it.

Senator SCHOONMAKER — No reasoning at all.

Mr. MCGUIRE — There is no objection to that.

Senator STARBUCK — Is there no estimated value indicated for that \$21,000 mortgage?

Mr. OLMSTEAD — No, sir; instead of the estimated value there is an entry "sale of real estate, part mortgage taken;" we shall have something to say about that hereafter; that \$21,000, we claim, was fraudulently put in to make up the amount; this is what is afterward called the Mulvany mortgage, on certain property in Beach street, New York, which the bank was supposed to own.

Mr. Olmstead called for a letter written by Geo. W. Reid to the Superintendent of the Bank Department January 4, 1876, which was produced and put in evidence as follows:

NEW YORK, Jan. 4, 1876.

Hon. D. C. ELLIS:

DEAR SIR — This morning I received the Excelsior — found that

the Dist. of Col. bonds had been sold and that the trustees had put in cash enough to wipe out every thing doubtful, and to give them a surplus of \$4,936 — and all the assets first class. The deficiency of income is about \$1,350, but De Witt says the trustees will pay all expenses. The deposits have been drawn down \$95,000 since Nov. seventeen, being now only \$360,000, including January interest. I then went to the trades — Freese said *he* had paid in \$7,000 cash, and every thing was all right. I asked to see the entries — he said they had not been made yet, but would be in a few days, as soon as they could write up the books. I then asked to see what made up the \$10,000 cash in the daily statement, *he refused*, giving the same reason that the books were not yet “written up.” He also refused to show me the minutes of the trustees’ meetings, but admitted that they had adjourned the last meeting without recording the names or voting a dividend. He wished me *not* to write you how I found things, but to wait a few days and then make an examination to test the accuracy of his annual report. I do not believe that the money has been or can be paid in, and I told him so. Leslie was not in. The deposits appear in the statement to be drawn down to \$12,000.

Sec’y Smith of the Clinton says the trustees have paid in the cash for the \$4,700 trustees’ notes, so that they will not appear in their report. The deposits have been drawn down to \$146,000.

The Bowery opened 400 new accounts on Saturday and 250 yesterday, making over 1,000 in ten days, refusing all large amounts; no one being allowed to deposit more than \$500. I have inquiries from two or three safe deposit companies for blanks for the Jan’y report, and also when they are to be examined, etc. Do you intend to send them any blanks for this month? Have heard nothing from the German of Morrisania, except from your letter.

To-morrow (Wednesday) I expect to go to Dobb’s Ferry to examine the Greenburgh Savings Bank.

Yours truly,

GEORGE W. REID.

Mr. OLMSTEAD [to witness] — Have you any other letters written by Mr. Reid about that date?

The WITNESS — I have a letter dated January thirteenth accompanying an examination made.

Mr. OLMSTEAD [inspecting the report of the examination produced by witness] — This document appears to be unaccompanied by any commission; how does that happen?

The WITNESS — I do not know why it is so; Mr. Reid can testify in regard to that better than I can; Mr. Ellis was in New York in December, and he may have given Mr. Reid oral instructions as to that matter.

Mr. OLMSTEAD — This paper appears to be the same as that printed on page 280 of the case, except that this is indorsed "Examined November 14, 1875; re-examined January 13, 1876. Geo. W. Reid."

Senator ST. JOHN — If the counsel will refer to page 290, he will see that there was a sort of general commission.

Mr. OLMSTEAD — I knew that, but I did not feel at liberty to refer to that testimony. The superintendent gave a general order to watch the weaker banks. I call attention to the fact that this shows a surplus of assets of \$2,432.34, and an access of income of \$643.49. This report is marked on the back: "Filed January 14, 1876." I now read in evidence this report and a letter from Mr. Reid, dated "New York, January 13, 1876," and accompanying this examination:

ASSETS AND LIABILITIES of the *Trades' Savings Bank, New York*, upon the 13th day of January, 1876, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	.....	.....	\$55,375 00
Call loans on bds. and morts, to'n and U. S. bds.	.....	.....	.....	.....	11,200 00
Buffalo city bonds.....	7	\$14,000 00	105	\$15,225 00	
Long Island City bonds...	7	7,000 00	100	7,000 00	22,225 00
Cash in safe.....	.....	.....	.....	\$6,616 00	
Cash in Grocers' Bank.....	.....	.....	.....	4,781 00	
Safe and fixtures.....	.....	.....	.....	.....	11,397 92
Interest accrued.....	.....	.....	.....	.....	2,000 00
					675 00
LIABILITIES.					
Due depositors .....	.....	.....	.....	\$100,320 58	\$102,872 92
Interest accrued.....	.....	.....	.....	120 00	100,440 58
Surplus .....	.....	.....	.....	.....	\$2,442 34
INCOME.					
Bonds and mortgages .....	.....	55,375 00	.....	\$3,876 25	
Call loans.....	.....	11,200 00	.....	784 00	

ASSETS AND LIABILITIES — (Continued).

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
City bonds.....	\$21,500 00	....	\$1,505 00	
Cash in bank.....	4,781 00	....	191 24	
CHARGES.					
Interest to depositors.....	\$4,450 00	
Salaries.....	988 00	
Internal revenue tax.....	125 00	
All other charges.....	150 00	
Excess.....	5,713 00
					\$6,326 49

Examined November 14, 1875; re-examined January 13, 1876.

GEO. W. REID.

NEW YORK, *January 13, 1876.*

Hon. D. C. ELLIS.

DEAR SIR—Inclosed I hand you statement of assets, etc., of Trades' Savings Bank re-examined this morning; I found a pencil memorandum of meeting of trustees *January first, seven* present with resolution authorizing payment of six per cent dividend, also confirming sale on Beach street house for \$28,500, one-fourth cash, and the balance bond and mortgage. When I was at the bank *January fourth*, Freese said "they had *not* had a meeting for want of a quorum, but would soon have one," he now says he was excited and hardly knew what he was saying. The entries in the cash-book for thirty-first December, are evidently made very recently "after they had had time to write them up" as Freese said.

The bond for the balance of the Beach street house \$21,375, is signed by John Mulvany for five years from December fifteenth, the mortgage said to be at clerk's office for record. Leslie was not in, but Freese says every thing has been done in good faith; perhaps so, but the entries in the books are not clear enough to convince me. Leslie is not to receive any rent for the banking-room.

If the bonds and mortgages are good for the amount, there will be a small surplus counting the safe and fixtures at \$2,000, with an excess of income, \$643.

Yours truly,

GEO. W. REID.

By Mr. ÓLMSTEAD:

Q. This letter of January thirteenth is indorsed in pencil: "Trade S. Bank, Mr. Reid, January 13, 1876;" what does that indorsement mean? A. It means the date of the letter.

Q. Can you tell when the letter was received in the department? A. It was received, I should say, the next day; letters mailed at New York on the thirteenth, would reach us usually on the morning of the fourteenth.

Q. Here is a letter of January nineteenth; is this a letter of Mr. Reid's found in the department? A. Yes, sir.

Mr. Olmstead read the letter in evidence, as follows:

EXHIBIT No. 20.

NEW YORK, *January 19, 1876.*

Hon. D. C. ELLIS:

DEAR SIR—Yesterday I went up to the Trades, but Lesley and Freese were both out. In looking over the books I could find noth-

ing to show that the trustees have put in a dollar toward the deficiency, which has been almost entirely made up from the enhanced price put upon the Beach street property. Since my examination November twelve, \$3,130 has been charged as paid in it, and the account stood at \$16,483.29, when the account was closed December thirty-one. There is no entry in cash-book of \$7,125, which, with the \$21,375 B. and M., was to make up the price for which the house was said to be sold. I am not surprised at discovering these facts, as I believed at the time that the sale was a *sham*, and that Freese's statement that the deficiency had been paid by the trustees, about meetings of trustees, etc., etc., all false. There are payments of interest on bond and mortgage entered in cash, December thirty-one, that may have been paid by Lesley, for I think the loans were made for his benefit.

Assets as per examination January thirteen	\$102,872 92
Deduct B. and M	21,375 00
	<hr/>
	\$81,477 92
Add Beach street house.....	16,483 29
	<hr/>
	\$97,981 21
Leaving deficiency of.....	2,459 37
	<hr/>
Liabilities.....	<u><u>\$100,440 58</u></u>

The Mechanics and Traders' have taken notices from depositors for about \$150,000, the time expiring early in February. Fisher says they have over \$200,000, in cash ready for them, but he is very anxious as to the result. Conklin says he thinks very little will be drawn. These reports will be "in shape" early next week, and they wish me to call and see it before completed. I will send reports in trust companies and four or five savings banks in a few days, and the balance (about a dozen) early in February. I suppose you saw the statement in the Tribune of this day, in relation to Schuyler's confirmation, and as to *republicans holding over*.

Yours truly.

GEO. W. REID.

Q. I see this indorsement on the back of this letter: "Trades' S. Bank, Mr. Reid, January 19, 1876;" is that the date of the receipt of the letter? A. That is the date of the letter.

Q. When was that letter received? A. On the twentieth, I presume.

Q. What, if any thing, was done in the department on the receipt of these letters? A. I do not know that any action was taken in respect to this institution.

Q. Did you have any conversation with Mr. Ellis in regard to this Trades' Savings Bank, on receipt of these letters? A. No, sir.

Q. Did Mr. Ellis see you? A. Did he see me—I was in the office all the time, and so was he.

Q. Where was Mr. Ellis at this time? A. He was at Albany, in the office.

Q. Did you do any thing in respect to this Trades' Savings Bank subsequent to the receipt of the report of January 13, 1876, and if so, what? A. I took some action in respect to the bank, but it was several months after.

Q. How long after? A. It was in August, 1876.

Mr. MCGUIRE—Do you wish to prove any additional fact?

Mr. OLMSTEAD—Yes; I do.

The WITNESS—I would like to state here that my testimony given at Albany is not all in the printed evidence; in July, advertisements of the Trade Savings Bank, in some of the New York papers, attracted my attention, as they promised perfect security of deposits and six per cent interest; and I wrote to Mr. Reid that I thought he had better go and look into the bank, for my impression was that they were getting ready to fail; Mr. Reid went to the bank, and made a report to me, in a letter which I have here; the part of my testimony at Albany, omitted from the record, is the statement that the advertisements of the bank attracted my attention and caused my action; the letter of Mr. Reid containing the report of this examination, made at my suggestion, is in reply to a letter from me, of which I made no copy.

Mr. Olmstead read the letter of Mr. Reid in evidence, as follows:

NEW YORK, *August 2, 1876*

MY DEAR LAMB.—On my arrival from the "Centennial" this morning I found yours of the twenty-ninth July, and went up to the Trades'. Freese seemed rather disposed to put me off, saying that the books were not posted, etc., etc. On telling him that you had requested, he wanted to see what you had written; and in reading it I skipped over your remark about the advertisements, and "I think to fail;" but he was looking over my shoulder and it caught his eye. He quite objects to your remark, and says you have no cause for saying he would "cheat the depositors," etc. I told him it was a very natural conclusion, knowing, as you did, about the sale of Beach street property for the supposed bogus mortgage. He rather stands

upon his dignity, and said he would require the "commission," but finally concluded he would come down and see me in the morning with Mr. Leslie, the president. Every thing appears about as it was at the July report. The Long Island City \$7,000 bonds have been sold at ninety-five, which would reduce the surplus \$350. Freese says the interest has been paid on the \$21,375 B. and M., *but it is not in the cash-book*. His account and the president's do not agree upon some points as to the conduct of the bank, and they are to see me about those differences to-morrow. I hope to get off for Oswego on Monday.

Truly yours.

GEO. W. REID.

Q. This letter was received by you at what date? A. It is dated August second, and I assume that I received it on the third.

Q. Where was Mr. Ellis at that time? A. He was away in New England.

By Mr. CHAPMAN:

Q. That is, he was on his summer vacation? A. Yes, on his summer vacation; down in New England somewhere.

By Mr. OLMSTEAD:

Q. What are your powers as deputy superintendent, in his absence? A. The same powers that he has.

Q. You have been in the habit of exercising those powers during his absence from Albany, have you not? A. Always.

Q. And you did in this case? A. Yes, sir.

Q. What did you do after receiving that letter from Mr. Reid? A. I sent him a commission to examine the bank.

Q. A formal commission, signed by yourself? A. Yes, sir.

Q. Have you that commission here? A. Yes, sir.

The witness produced the commission, and the accompanying report, which were read in evidence as follows:

BANK DEPARTMENT, }
ALBANY, August 3, 1876. }

GEO. W. REID, *Examiner*:

* SIR — Pursuant to the authority given by chapter 371 of the Laws of 1875, I do hereby authorize and direct you to examine into the condition, assets, workings and affairs generally of the Trades' Sav-

ings Bank. I especially direct you to investigate the real estate transactions of said bank in order to ascertain whether they have been completed as they have been reported to the department.

HENRY L. LAMB,

Dep. Supt.

ASSETS AND LIABILITIES of the Trades' Savings Bank of New York upon the 9th day of August, 1876, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.

	Rate of interest.	amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
B. and M., C. Bolles, 83d st., int. fr. May 1.....	*\$9,000 00	....	....
B. and M., C. Bolles, 83d st., int. fr. May 1.....	8,000 00	....	....
B. and M., C. Bolles, 83d st., int. fr. May 1.....	5,000 00	....	....
B., Mich Grace, Green Point (2)	6,000 00	....	....
B., Wm. Atwater, 237 Bedford ave., Br.....	†6,000 00	....	....
B., Alexander M. Lesley, Beach st., (2).....	†15,000 00	....	....	\$49,000 00
Call on U. S. bonds loan	250 00
F. Kingman recpt. for I. R. Freese, B. and M. \$10,000 Jan. 16, '75, loan to E. B. Newbern, Apl. 26, '75,	5,000 00
Safe and fixtures	2,000 00
U. S. stamps.....	330 00
Cash, safe	\$3,659 83	
Cash, Grocers' Bank.....	24,954 54	
Rent due.....	28,614 37
Overdrafts, good	680 83
Interest accrued.....	868 14
	1,696 00
Liabilities	\$88,439 34

Due depositors .....	.....	88,178 67	.....	.....	.....
Interest accrued.....	.....	200 00	.....	.....	88,378 67
Surplus.....	.....	.....	.....	.....	\$60 67

*Assigned by Leslie to I. W. Freese.

+ Owned by bank, no title shown.

Not recorded, no title shown.

GEORGE W. REID.

Q. You received that report from Mr. Reid ? A. Yes, sir.

Q. What did you do then ? A. I considered the question a day or two, and then presented the case to the Attorney-General for his action.

Q. Did you send a letter to the Attorney-General ? A. Yes, sir.

Q. Have you that letter ? A. I have a copy of it.

Letter produced and read in evidence, as follows :

BANK DEPARTMENT, }
ALBANY, August 14, 1876. }

Hon. CHARLES S. FAIRCHILD, *Attorney-General* :

SIR — Several examinations of the 'Trades' Savings Bank, New York city, have been made during the past nine months. All have failed to remove the impression that the management of the bank is inefficient and loose, if not dishonest. The last examination was made on the eighth of August. It is reported again by the examiner that no title can be found by him to a bond and mortgage, claimed to be owned by the bank and put in the assets at \$15,000, nor is said bond and mortgage recorded. Another bond and mortgage is claimed to be worth \$6,000, and to be owned by the bank, but the officers fail to present any title to it in the bank. Since most strenuous efforts by the examiner, under the direction of this department, do not cause the officers of the bank to produce the title to this property, I am compelled to believe that the said officers cannot show such titles, but that they have falsely represented the assets of the bank to this department. From the statement made by the examiner, I came to the conclusion that the said bank is actually insolvent, and that it is not safe nor expedient for the corporation to continue to do business. Therefore, in compliance with the provisions of section 44 of chapter 371, Laws of 1875, I recommend that you institute such proceedings against said corporation as the nature of the case may require.

Yours respectfully,

HENRY L. LAMB,

Deputy Superintendent.

Q. Where was Mr. Ellis, the superintendent at that time ? A. He was still absent on his vacation.

Q. Do you know whether there were proceedings taken to close the bank on your recommendation ? A. There were.

Q. Do you know when the bank was closed ? A. An injunction was served on, I think, the last Saturday in August ; I cannot give you the exact date.

Q. Was there any examination made of this Trades' Savings Bank, to your knowledge, between January 13, 1876, and August 9, 1876 — January thirteenth being the date of the report by Mr. Reid, and the report of August ninth being the report of the examination made by your direction? A. If Mr. Reid's examination, which I directed him to make, is dated August ninth, there was, to my knowledge, no examination made between the thirteenth of January and that made in August.

Q. Did you have any conversations with Mr. Ellis subsequent to January 13, 1876, in respect to closing of this bank? A. Not between January thirteenth and the time when the bank was closed.

Q. Or about that time? A. Yes; after he returned from his vacation after the bank was closed by injunction.

Q. Before his return had you any? A. Not before his return.

Q. State just when it was? A. After his return and while the bank was closed by injunction; the bank trying to raise the injunction and continue business, we had conversations about it.

By Senator COLE:

Q. As the official correspondence came into the office, day by day, who received it and read it? A. I received it and read it.

Q. Was it, or not, the custom of the office that all correspondence should be submitted to the superintendent when he was in town? A. No, sir; that is not, and has not been the practice.

Q. Then he was not in the habit of reading the correspondence received there, unless it was submitted to him specially by you? A. That is the case.

Q. Otherwise you took entire charge of it yourself? A. I did.

By Mr. CHAPMAN:

Q. It would be practically impossible, would it not, for the superintendent to keep watch of all the papers and letters that come into the office? A. I don't know that it would be *impossible*.

Q. Impracticable, then? A. I do not think it is a practicable thing.

Q. Is it not true that after the first of January, during the whole of the session of the Legislature, that office is very full of business? A. Yes; there is an unusual amount of business.

Q. I ask you now whether, if the superintendent should commence on the first day of January reading, comparing and verifying the official papers, he could get through with all the letters, reports, documents and figures coming into that office, working during office hours, even if he did nothing else whatever? A. I do not think it is practicable for one man to do it.

Q. Do you think it would be even possible — I mean to make such an examination as would enable him to verify the contents of the papers, working during the business hours of the department? A. Yes, I do think it is *possible*.

Q. Now state whether it would be possible for him to do that and also to attend to the duties of his office, and answer all the letters that would have to be answered? A. Do you mean, to write the letters himself?

Q. Yes. A. Well, I doubt whether it would be possible.

By Mr. OLMSTEAD:

Q. Were you in the habit of calling Mr. Ellis' attention to the weak banks, and the reports in regard to them? A. All letters outside of routine business — any thing of special importance — was immediately presented to Mr. Ellis by me, if I received such letters.

Q. Were the letters which have been introduced in evidence to-day shown to Mr. Ellis at about their respective dates? A. I think that all the letters that have been presented here were received at the office and presented to him immediately upon their receipt, if he was in town; of course the August letters, he having been absent, he did not see.

Q. During what period was Mr. Ellis absent from the office? A. I can't tell you exactly when he went away on his vacation; I should say it was within two or three days of the twenty-fifth of July, but it may have been a day or two before or after.

Q. Then he must have seen the letters of February 5, 1874, and of January 4, 13 and 19, 1876, about the times when they were received? A. I have no doubt that he saw all of those letters.

By Mr. CHAPMAN:

Q. What he did himself in connection with this bank, after the receipt of those letters, you do not know? A. What he did that is on record in the office, I know about; what he may have done in New York with the bank officers, I have no knowledge of; as I have said already, I never go to New York to do business with the savings banks officers, while Mr. Ellis goes often.

Q. It seems, from these papers, that there were three examinations of this bank made inside of nine months? A. Yes, sir.

By Senator WAGSTAFF:

Q. When did the department first receive information that the capital of the Trades' Savings Bank was impaired, or, in other words, that the liabilities exceeded the assets? A. My recollection now is

that Mr. Reid's letter of the 5th of February, 1874, shows a small deficit; that was an informal examination; the examination of November 12, 1875, shows a deficiency.

Q. And from that date until the letter of January 19, 1876, was that deficit made up in a satisfactory manner? A. Mr. Reid, by direction of Mr. Ellis, re-examined the bank on the thirteenth of January, and reported that there was a surplus, as is shown by this correspondence.

By Mr. CHAPMAN:

Q. You speak of a letter showing a small deficit in February, 1874?

A. Yes, sir.

Q. Did it come within your knowledge that after that Mr. Ellis did go to the bank and take some action, make some change of officers, or cause some change to be made? A. If you desire to know what his action was upon that letter of February fifth, I had better take the letter-book, which shows.

Q. If you know of any thing that he did, of your own knowledge, state it; the question is, whether you can explain what he did, or whether we shall have to show that by Mr. Ellis himself? A. Well, I have knowledge of one fact; the letter of February fifth mentions the then president of the bank as endeavoring to use the bank for his own purposes, and I know that Mr. Ellis went to New York subsequent to that and caused the removal of Mr. Le Baron from the presidency of the bank, and a substantial reorganization of the bank, with Alexander M. Lesley as president.

Q. That, you say, was subsequent to this letter showing a small deficit? A. Yes, sir.

By Senator WAGSTAFF:

Q. When did the department first discover this unrecorded bond and mortgage? A. Mr. Reid's report shows; I can't tell you the date; there were three or four reports made within one month.

Q. Do you recollect the year? A. It was in 1876; I think it was in the August report.

By Mr. CHAPMAN:

Q. The one on which the bank was closed? A. Yes, sir.

Mr. McGUIRE — If the Senator [Wagstaff] will look at page 280 he will see that the mortgage *was* recorded.

By Mr. CHAPMAN:

Q. It appears, then, that Mr. Reid made three separate examinations and three separate reports to the department within nine months, does it not? A. Yes.

Q. And it appears, also, that he went to the bank at several other times during those nine months, aside from the three occasions on which he made examinations? A. Yes, sir.

Q. So that there was a pretty close watch being kept on the bank during that time, was there not? A. There was.

Here the Senate took a recess until 4 P. M.

SARATOGA, *July 26, 1877.*

The Senate reconvened at 4 P. M., pursuant to adjournment; a quorum present.

Henry L. Lamb, recalled on behalf of the state, further testified:

Q. On your cross-examination some reference was made to some letters from Mr. Ellis to Mr. Reid; letters which passed between them; have you any such letters or copies of them from January 1, 1874, to September, 1876? A. I do not recollect of testifying to that; the question, as I understood, was whether Mr. Ellis and I had any talk about this bank.

Q. Have you any such letters or copies of any letters from Mr. Ellis to Mr. Reid from January 1, 1874, to September, 1876? A. I don't think I have.

Q. Have you none in the letter-book? A. I refer to the letter-book; but that was a letter written in consequence of a letter of February 5, 1874, and was not written in the year 1876.

Q. Perhaps you do not understand me; my question covered that period of time from January 1, 1874, to September 1, 1876; if you had any letters from Mr. Ellis to Mr. Reid during that period? A. The letter I referred to was not addressed to Mr. Reid, but to the Attorney-General.

Q. Has that letter been produced? A. No, sir.

Q. Produce it? A. I have a letter I referred to this morning in this large letter-book, written by Mr. Ellis.

Mr. TRACY — I will read this letter in evidence, Mr. President.

“ALBANY, *February 6, 1874.*

DANIEL PRATT, *Attorney-General* — In pursuance of chapter 393, Laws of 1871, I hereby communicate to you the fact that, in my judgment, it is unsafe and inexpedient for the Trades' Savings Bank of the city of New York longer to continue business as a savings bank, and would respectfully recommend that the necessary steps be taken to close its affairs.

DE WITT C. ELLIS,
Superintendent of Banking Department.”

Mr. CHAPMAN — That is in response to the first letter you introduced here?

Mr. TRACY — Yes, sir.

Q. Have you produced before the Senate all letters in your possession or in your department from Mr. Ellis to Mr. Reid in respect to the savings bank between the dates of January 1, 1874, and September 1, 1876? A. I have them in the letter-book.

Q. Refer to them in the letter-book? A. The next letter in the letter-book is addressed to the 'Trades' Savings Bank, and is dated July 31, 1874.

Q. Read it? A. [Witness reads as follows:]

“ALBANY, N. Y., *July 31, 1874.*

TRADES' SAVINGS BANK — The cost of stocks should be entered in the report under item two of resources, instead of market value, and the difference between market value and cost should be included in the aggregate of 'Schedule G.' The amounts of the various assets should be enumerated in 'Schedule G,' should be stated separately and not in the gross sum. Please correct and return.

H. S. LAMB,

Deputy Superintendent.”

Mr. TRACY — I offer this letter just read in evidence.

Q. Read the next letter to the bank? A. The next letter is April 6, 1875, and reads as follows:

“ALBANY, N. Y., *April 6, 1875.*

I. M. FREESE, *Secretary of the Trades' Savings Bank:*

DEAR SIR — The certified copies of papers requested by you in your letter of April second were sent you yesterday. Please remit.

HENRY L. LAMB,

Deputy Superintendent.”

The next letter is as follows:

“ALBANY, N. Y., *July 7, 1875.*

I. M. FREESE, *Secretary, etc.:*

Your letter of June thirtieth, inclosing several bills on State banks for redemption, was received yesterday. I inclose a check for five dollars for the five dollar note on the Central Bank of Brooklyn. I also return the receipted bills, the time for the redemption having expired.

HENRY L. LAMB,

Deputy.”

The next letter is :

“ALBANY, *September, 25, 1875.*

ALEXANDER M. LESLEY, *President Trades' Savings Bank :*

DEAR SIR — The report of the examination of your bank shows that there is a deficiency of assets.”

MR. CHAPMAN — That is not all.

The WITNESS — That is signed by Mr. Ellis. The next letter is :

“ALBANY, *March 31, 1876.*

W. D. HOLT, Esq., *New Trenton, N. J. —*

By MR. CHAPMAN :

Q. Who is Mr. Holt? A. I don't know; he is connected with the bank, but the question related to some transaction of the Trades' Savings Bank.

Q. Who is that letter signed by? A. By Mr. Ellis.

Senator BRADLEY — Mr. President, it seems to me really putting a great many things here more than is necessary. Some of these letters seem to have no sort of bearing on the case, and would it not be advisable for the counsel to select out the letters and see what they are, and see whether they are of importance.

MR. TRACY — Mr. President, this is about some investment of the bank, and I think it should be read.

Q. Read it? A. [Witness resumes reading:]

“ALBANY, *March 13, 1876.*

W. D. HOLT, Esq., *New Trenton, N. J.:*

DEAR SIR — The question you asked me in relation to the mortgage held by the Trades' Savings Bank is one for the courts to settle. By the act of 1875 savings banks of this State are not permitted to invest their funds in mortgages out of this State. It seems by the report of this bank that this is not an investment, but a loan on security as collateral, of which this is one. Whether the transfer was legally made to the bank, of course I have no knowledge. That seems by your letter to be the question in dispute.

Yours truly.

DE WITT C. ELLIS,

Superintendent.”

The next letter is as follows :

“ALBANY, N. Y., *August 7, 1876.*

ISAAC FREESE —

By Mr. CHAPMAN :

Q. What Mr. Freese is this? A. He is not the Freese that is secretary of the bank.

Q. That was after you reported it to the Attorney-General? A. No, sir; I reported it to the Attorney-General the fourteenth of August.

Q. Read it? A. [Witness resumes reading:]

“ALBANY, N. Y., August 7, 1876.

ISAAC FREESE :

DEAR SIR — I am in receipt of the notice which you sent to the superintendent of your withdrawal from the bond of Mr. Freese of the 'Trades' Savings Bank. As the trustees of the bank took the bond, and as he and his bondsmen are responsible to the trustees, your notice should be sent to them.

HENRY L. LAMB,
Deputy.'

The WITNESS — The bondsman of the secretary simply sent notice to us he desired to withdraw, and I wrote we had nothing to do with it. Mr. Ellis was then away. The next letter is August fourteenth, which I addressed to the Attorney-General.

Q. It has been read? A. Yes, sir; put in this morning.

Q. Go on? A. There were other letters written after that. The next letter is as follows:

“ALBANY, N. Y., August 25, 1876.

ALEXANDER M. LESLEY, *President of Trades' Savings Bank* —

Senator BRADLEY — Mr. President: It seems to me the counsel had better look at them and see whether they are important.

The WITNESS — This letter is very badly copied, and exceedingly difficult to read, but I think I could decipher it.

Q. What is the substance of the letter? A. [Witness reading.] 'I am in receipt of your letter with inclosures. I find by comparison of the documents which you send that the statements made by the officers of the bank to Mr. Reid in January respecting this property were untrue, as he reported that he had reason to think them untrue. You stated to me, when you were here, that you had made a loan outside of \$10,000. You could not tell me the purpose for which that loan was made except that Mr. Freese desired it to be made. I find the fact that such loan was concealed from the examiner on the ninth of August, and I cannot find any satisfactory ground to rest on respecting the actual and true condition of the bank. Falsehoods, evasions and deceptions certainly do not tend to inspire confidence in

officers of a bank; what further have you done; have you examined your deposits; have you informed your board of trustees of the peril you were in?

HENRY L. LAMB.
Deputy."

The WITNESS — Mr. Lesley had been to Albany, and that was the occasion of the letter.

Q. You sent the letter? A. Yes, sir; Mr. Ellis was still absent.

By Mr. CHAPMAN:

Q. That was after the proceedings of the Attorney-General? A. Yes, sir. The next letter is as follows:

"ALBANY, *October 16, 1876.*

ALEXANDER M. LESLEY, *President, etc.:*

SIR — I am in receipt of your letter of the fourteenth instant.

The Trades' Savings Bank is in the hands of the court. I am informed that proceedings have been delayed by the earnest appeal of the officers of said bank who entreated that their mal-administration of their duty and trusts should not be exposed before they had a chance to correct their misdemeanors. The Superintendent of the Bank Department has no further jurisdiction in respect to that bank.

Yours truly.

HENRY L. LAMB,
Deputy."

Mr. Lesley had written to know what the state of the bank's affairs were. I have his letters here. The next letter is December 7, 1876; that was after it was placed in the hands of a receiver. Mr. Crouch wrote for information, and this letter is addressed to him:

"ALBANY, *December 7, 1876*

D. C. CROUCH:

DEAR SIR.—

Mr. CHAPMAN—Who is Crouch?

The WITNESS — I cannot tell who he is; a party asking information about the bank; that is all I know about it; he asked for some information, and the reply was, we knew nothing about the bank, it being in the hands of a receiver; that is the import of the letter.

Senator PRINCE—After the proceedings are commenced by the Attorney-General, how can they be material?

Mr. TRACY—They cannot, unless it be after restoration of the bank, and, in that case, it may be important.

The WITNESS — There is no other letter until May 17, 1877, subsequent to that.

Q. Have you any other letters from Mr. Reid to the department from January, 1874, to September, 1876, other than those you have produced, these three or four letters?

By Mr. CHAPMAN:

Q. Any other than what Mr. Tracy had this afternoon? A. No, sir.

Q. Other than those that have been put in evidence? A. The package you took from me a little while ago have not been put in evidence at all.

Mr. TRACY — I supposed they had, three or four of them.

The WITNESS — No, sir.

Q. Read the letters, that you have produced, in the order of their dates? A. [Witness reads as follows:

“NEW YORK, *August 29, 1876.*

MY DEAR LAMB. — Yours of, the twenty-seventh and twenty-eighth just received, also commission.

The bogus minutes of the trustees' meeting, no date, authorized John Mulvaney to return the deed to Beach street property or rather to receive, in place of it, two bonds and mortgages amounting to \$15,000, and cash \$10,000. Mulvaney's bond and mortgage for \$21,350 to be returned to him, an apparent gain to the bank of \$3,650, but there is no entry of the \$10,000 in cash. The deed to Mulvaney I understand was not recorded until July twentieth, the same day the money was borrowed from Samuel L. Willis, through W. M. Powell, attorney, 29 Wall street. These mortgages \$7,500 and \$2,500 are dated and recorded July twentieth, due in three years. Deed from Mulvaney to Livingston June thirteenth, recorded July thirteenth; deed from Livingston to Leslie June twenty-sixth, recorded July thirteenth; two bonds and mortgages \$15,000, Lesley to Livingston, July twentieth, recorded August twenty-fourth, assigned by Livingston to Trades' Savings Bank the same day. Your transaction is illegal, as nothing is said in the record about the first mortgage to Willis, and the bank is not allowed to take second mortgages. I find, on inquiry at the Grocers' Bank, that Mr. Freese has made many transactions on the bank's account that do not appear on the books of the savings bank, and that borrowed mortgages and other securities have been used as collateral without any resolution of the board; in fact, just as he saw fit. It may have been for the benefit of the bank, but the whole management has been irregular, and nothing can be learned from the books, and they have been made out to suit

occasions, as they were required from time to time, as you will see from my letters of last January. Mr. Cothren says Leslie told him that his friends would furnish means, with securities enough to pay all depositors, so as to stop proceedings, and the trustees were to meet last evening, but up to this time (3 P. M.) nothing has been heard from him or Freese.

GEORGE W. REID.

By Mr. CHAPMAN:

Q. That was a letter to you in Mr. Ellis' absence? A. Yes, sir; there are some personal matters in that letter that do not concern the bank, which I did not read; I now read the following:

"NEW YORK, *September 2, 1876.*

MY DEAR LAMB — The date of the record is always the time that papers are left in the register's office.

Mr. Hawkins returned yesterday, but is away again to day; we are to meet Freese on Monday with the books and minutes of the trustees' meeting, etc., and I think from present indications the result will be, all opposition to the appointment of a receiver will be withdrawn, as Lesley and his friends will not be able to furnish any funds to secure the deposits. The fourth section of the charter of the Trades' still in force, makes it necessary for a majority of all trustees to vote in favor of any transfer of securities or to make any loan, etc. This has not been complied with, I think, in any case; Freese has been allowed to use the funds as he saw fit, without any special authority, but I do not think he has ever used the funds for his own benefit, but he has made desperate efforts to keep the concern going in hopes of securing a position for life. Lesley has been used, and will, in the end, have to pay most of the deficiency. He certainly has been very weak in allowing himself to be so involved after all my warnings to him last winter, when he knew nothing about the sale of the Beach street house.

Yours truly.

GEORGE W. REID.

P. S.— I do not go to Poughkeepsie on Monday, as Hawkins was so anxious I should meet Freese at his office, and have a full explanation. I will let you know the result.

Yours truly.

GEORGE W. REID."

Witness also reads the following:

"NEW YORK, *September 20, 1876.*

Hon. D. C. ELLIS:

DEAR SIR — I returned this morning from Poughkeepsie. Hawk-

ins says that Freese reports Lesley has raised \$1,000 on his account, and hopes you will grant another adjournment, as his object now is to keep the injunction on ; that is to compel them to pay in as much as possible for the depositors. From what he says I am satisfied he will not contest the matter if it comes before the court, but if he can get the deficiency made good thinks his chance for an allowance for him out of the funds of the bank better than it would be at the present. Freese handed him the statement of assets made out by John, but it was not satisfactory, or full enough, and he handed it back for particulars, but has not yet received them. I propose leaving next Monday for Port Jarvis, etc., and propose returning on Saturday following.

Yours truly.

GEORGE W. REID."

"NEW YORK, *September 9, 1876.*

HON. D. C. ELLIS :

DEAR SIR — Early in August the directors of the Manuftrs. and Merchants passed resolution to reduce, and 1,000 out of the 3,667 necessary, have signed ; as soon as the requisite number is obtained they will let you know. Since July first the Excelsior have paid dep. \$50,000. Amount now due, \$226,000, also, loan from New York Life and Tr., \$40,000, and some bank \$15,000. Thurber has purchased the Brooklyn real estate. \$15,000, and \$40,000 of the poorest bonds and mortgages, the cash to be paid in a few days, when the loans will be taken up. This will leave nothing but the very best securities with a small surplus. The income for six months to July just paid expenses. I met the new President at the bank. He appears to be a prompt business man, and says that he and Thurber are determined that the depositors shall not loose a dollar. Freese was not at the bank this morning ; "Jno" said that he made out the statement showing the "present condition" and the items of the \$7,000 entry, and gave it to Freese. He "could not" (or would not) "tell me any thing about it ; could not remember ; Mr. F. would explain it all." I left word that Freese must have it at my office before 2 P. M., as you wished me to send it to you before I left the city. Three P. M. Freese has not made his appearance ; Hawkins is out of the city, for a day or two. Monday A. M. I leave for Matteawan, Tuesday at Wappinger Falls and Wednesday at "Morgan House, Poughkeepsie," or at savings bank, where you can address me if you wish me to attend court at Schenectaday or Saratoga. Will probably remain there until Wednesday, twentieth. I think Howkins will be convinced in a few days that Lesley and the others cannot

make good the overdraft and withdraw all opposition to the appointment of receiver.

Yours truly.

GEO. W. REID."

"NEW YORK, *September 23*, 1876.

Hon. D. C. ELLIS:

DEAR SIR—Hawkins says Leslie sold his stock, Central Safe Deposit Co., \$1,000 for \$500, and business paper for another \$500, to raise the 1,000 referred to in my letter. Bolles was to let him have 4,000 and they were to be at Hawkins' office this morning at 11 with the certified checks, but they have not yet made their appearance (3 P. M.), probably the whole thing has fallen through.

Yours truly.

GEO. W. REID."

"NEW YORK, *October 7*, 1876.

Hon. D. C. ELLIS:

DEAR SIR—I think there is no use in waiting longer for the Trades' Hawkins arranged for me to go up this morning and see if Lesley had put in the amount agreed upon, if not he was to withdraw all opposition to the appointment of a receiver. Lesley has discharged Freese's brother, and had a book-keeper to examine his books, who says the bank is indebted to him, instead of balance due the bank; therefore refuses to pay any more than the \$1,000 now in the hands of Hawkins. Freese gave me a statement in which Lesley is charged \$4,650, and the Bedford avenue property \$6,000, entered as real estate \$9,522; and even these show a deficiency of \$700. In fact no dependence can be placed on any of these 'statements,' no two of them being alike. (Due depositors \$76,000.) Hawkins is out of the city to-day but I have reported the facts, as found, to Mr. Cothorn.

Yours truly.

GEO. W. REID."

Q. Those are all the letters you have that have not been read? A. Those are all the letters from Mr. Reid; here is a letter written by Mr. Crouch; I do not think it is of any account.

Mr. CHAPMAN— I have no objection to it.

By Mr. CHAPMAN:

Q. All these letters that you have read are letters containing information which Mr. Reid obtained after the bank had been reported to the Attorney-General? A. Yes, sir, and closed by injunction.

Q. And the injunction served? A. Yes, sir.

Q. So that during all this time the bank was under an injunction and could do no business? A. Yes, sir.

Q. I noticed in some of the letters allusion was made to mortgages being recorded, etc.; are those the mortgages which are alluded to in the printed testimony as having been certified to by the register of New York as recorded? A. Yes, sir.

Q. I notice in the testimony there is a certificate of the register? A. I have it here.

Q. That was introduced in evidence before? A. Yes, sir; I think it was.

Mr. TRACY — It is not in the printed book.

Mr. CHAPMAN — There is sufficient on the subject in the book.

Q. Read the letter that the counsel asked you to refer to and that you did not read? A. The first letter presented this morning is written by George W. Reid, dated New York, December 15, 1873.

“Hon. D. C. ELLIS, *Superintendent*:

DEAR SIR — * * * The “Trades” makes a better show than I anticipated, and may succeed if the president does as well as he promises to do.

Yours truly.

GEO. W. REID.”

Mr. CHAPMAN — I offer in evidence this certificate of the register. It reads as follows:

“I, Patrick H. Jones, register of the city and county of New York, State of New York, do hereby certify that there has been left at my office, for record, a certain mortgage made the 20th day of July, 1876, by Alexander M. Lesley and wife to William B. Livingston, to secure the payment of the sum of \$7,500 on the 20th day of July, 1879; also, a certain mortgage made on the 20th day of July, 1876, by Alexander M. Lesley and wife to Wm. B. Livingston, to secure the payment of the sum of \$7,500 on the 20th day of July, 1881, both of said mortgages being on a lot and five-story brick dwelling-house, situated on the north side of Beach street, sixty feet westward from St. John's Alley, in the fifth ward of the city of New York; also two certain assignments of the mortgages aforesaid, made by Wm. B. Livingston, into the 'Trades' Savings Bank of the city of New York, bearing date the 21st day of July, 1876.

Witness my hand and official seal this 24th day of August, A. D. 1876.

J. Y. SAVAGE, *Dep. Reg.*”

By Senator HARRIS:

Q. You was cognizant of all the transactions relating to this bank that appeared in the department; all that appeared on the records of your department? A. Yes, sir.

Q. Was there any thing, in your opinion, to justify the appointment of a receiver until the special examination was made under your direction? A. Yes, sir; I should have closed the bank in January.

Q. What is the answer? A. I should have closed the bank in January.

Q. The January of that year? A. Yes, sir.

Q. That was 1876? A. Yes, sir.

Q. Upon what information? A. Upon the three letters written by Mr. Reid, and particularly the letter of the nineteenth of January.

Q. By whom? A. Written by Mr. Reid, the examiner.

Q. Is that the letter that has been put in evidence? A. Yes, sir.

Q. What was done by the department after that letter was received? A. Nothing.

Q. When was there any further transaction of any kind with the department after that letter? A. July twenty-ninth.

Q. That was the time you moved? A. Yes, sir.

Q. When Mr. Ellis was away? A. When Mr. Ellis was on his vacation, as I stated this morning.

By Mr. CHAPMAN:

Q. I desire to ask as to whether Mr. Ellis was in any way connected with this bank, or had any conversation with them, or had any knowledge that you did not have or care to know of? A. I know that Mr. Ellis had an interview with Mr. Freese in the department in December; I was not present at it and don't know what the import of it was, except in a general way.

Q. After January 19th did you know what conversations Mr. Ellis had with Freese or the officers connected with the bank? A. No, sir.

Q. What occurred between Mr. Ellis and the officers connected with the bank after January 19th you don't know? A. Except what appears by the record I believe there is nothing.

Q. You only speak from the record? A. Entirely.

Q. What the head of the department may have done outside of the record you have no knowledge? A. No, sir; I want to say now when I said nothing was done between January and July, that I qualify what I say; I speak as appears by the record always; always with that qualification.

George W. Reid, being duly sworn on behalf of the State, testified as follows:

Examined by Mr. OLMSTEAD:

Q. Where do you reside? A. Elizabeth. New Jersey.

Q. What is your business? A. I am bank examiner of the State of New York.

Q. How long have you been such bank examiner? A. Nearly six years.

Q. Have you been present during the time when Mr. Lamb has been giving his testimony in relation to the Trades' Savings Bank? A. Yes, sir.

Q. You have heard the letters read by him, purporting to come from you? A. Yes, sir.

Q. And the report that has been presented? A. Every thing.

Q. And the examination purporting to have been made by you? A. Yes, sir.

Q. State to the Senate whether the facts stated in these letters are true? A. They are all true.

Q. State whether the facts stated in your examination are true? A. Yes, sir; in every instance.

Q. You went to the bank and made those examinations, as stated in your report? A. Yes, sir.

Q. When did you discover the fact about the Mulvaney mortgage? A. I did not discover the true case of it until after the bank was enjoined.

By Mr. CHAPMAN:

Q. After it was reported to the Attorney-General? A. Yes, sir.

By Mr. OLMSTEAD:

Q. The report of January '13th? A. The letter of January 13th also, I have here.

Q. What were the facts which you discovered in regard to that Mulvaney mortgage? A. Mr. Freese acknowledged to me that it was, as I had always suspected, a bogus transfer, never sold, that is, for a consideration.

By Mr. McGUIRE:

Q. What time does the witness allude to that he made the discovery?

Mr. OLMSTEAD — We will find out.

Mr. McGUIRE — Mr. President, I object; the witness stated he

did not find out the facts until after the bank was handed over to the Attorney-General; what he found after that time I object to as immaterial.

Mr. OLMSTEAD—Mr. President, I asked him what the fact was that Mr. Reid discovered in respect to this Mulvaney mortgage.

Mr. MCGUIRE—The preceding question was, what time did you discover the fact in regard to the Mulvaney mortgage? The witness discovered it not until after the bank was handed over to the Attorney-General; then follows the question, what were the facts? Mr. President, the ground of the objection is this, that by no possibility can Mr. Ellis be chargeable with any knowledge of this Mulvaney mortgage, such as Mr. Reid acquired after the superintendent gave the Attorney-General the notice.

Mr. TRACY—There are two points of inquiry investigated in all this business we have to look after in conducting this thing; one is information reaching the department, and the other is the fact itself. What is the insolvency, the bad management, the vicious condition of any one of these banks is a substantive matter of inquiry here in every case and has been so allowed by the Senate to proceed, and the amount of interest which the superintendent had is perhaps to be inferred from the evidence already put in evidence. Mr. Reid says he always suspected there was something wrong about the mortgage, and we ask now what the real facts about the mortgage were. We want to show that the bank was insolvent or desperate and also to show notice to the superintendent. This question is, what were the facts about the Mulvaney mortgage? The Senate desires, of course, to know what the facts were; if this man knows, he is a man by whom we can show it.

The President submitted the question to the Senate whether the testimony should be admitted, and it was decided in the affirmative.

Q. Proceed, Mr. Reid, and state what the facts were in regard to that Mulvaney mortgage? A. In order to make up a good statement for January, 1876, they appeared to have transferred the Beach street houses, so called, to this man Mulvaney.

Mr. MCGUIRE—Mr. President, I object to what seemed to “appear” to the witness; he is asked to state the facts.

The PRESIDENT—The witness will state the facts.

The WITNESS [continuing]—They pretend to have sold this property.

Mr. MCGUIRE—I object to that answer.

The WITNESS—They had a mortgage signed by a man by the name of Mulvaney for \$21,375, I think that was the amount on the Beach street house; they had a mortgage for \$21,375 on the Beach street house which they had owned for some time; they stated to me that

they had sold the Beach street house and received this mortgage, and they sold it for \$28,000; received this mortgage and the balance in cash.

Q. How much was the cash that they told you they had received?

A. That would be \$6,625; I think it was \$21,375.

Q. The bond and mortgage is how much? A. Twenty-one thousand three hundred and seventy-five dollars; I am not certain whether they sold it for \$28,000 or \$28,500, I am under the impression it was \$28,500, for I think it was \$7,000 and over that they stated they had received.

Q. Do you know how much that property was rated at on the books; the cost price at the bank? A. When I made the examination at that time I think it was about \$15,000.

Q. It was sold for \$28,000, as you understood, and a mortgage of about \$28,000, also given back, and cash reported to have been paid something like \$7,000? A. Yes, sir.

Q. Did you make inquiry at the bank for that cash? A. Yes, sir.

Q. Did you find it? A. I could not find the entries made in a proper manner.

Q. Was the cash produced before you in any way? A. Oh, no; it would not be, of course; if they had received it, it would have gone into the cash.

Q. Did you see the mortgages? A. No, sir; they said they had gone for record, I think I saw the bond.

Q. Did you get any information from the trustees of that institution, in respect to the validity of those mortgages at any time? A. No, sir.

Q. Have you stated now all the information you have in respect to that mortgage? A. I believe I have.

Q. That mortgage formed a part of the assets of the bank, according to the report of January 1, 1876? A. It did.

Q. And the surplus as shown by the report of the bank on that date was \$1,459.88; you examined the bank on January 13, 1876? A. I did.

Q. Did you see the telegram from Mr. Freese to Mr. Ellis, December thirty-first, to this effect: "Telegram received; every thing fixed up as proposed?" A. I am not certain whether I saw the telegram or he told me.

Q. Who told you? A. Mr. Freese, that he had telegraphed to that effect.

Q. What evidence had you that the deficiency of that bank had been made good at that time? A. From the footings of the books.

Q. That was all? A. The accounts were so made up that it appeared it had been made good.

Q. What examination did you make to see whether the deficiency had been made good; any thing but the examination of the books?

A. I took the assets and examined all the assets they produced.

Q. Did you examine any of the officers under oath? A. Yes, sir; I examined Mr. Freese; I am not certain whether I put the president, Mr. Lesley, under oath or not.

Q. Did you keep copies of those examinations made under oath? did you keep a copy of the examination made this time? A. They are sent to the department; I do not keep a copy.

Q. They are official reports to the Bank Department? A. Yes, sir.

Q. Were there any such affidavits annexed to this report of January 13, 1876? A. It was not annexed; I merely swore them on oath.

Q. Did you keep a copy of the examination made this time? A. I sent it to the department—that which you have there.

Q. That is the report? A. Yes, sir.

Q. It does not appear from this that there is any other examination—that there are so many assets and so many liabilities—did you make any special examination? A. I don't know that I did, at that time.

Q. I ask you if you made any special examination as to it? A. Merely asking questions in regard to it.

Q. I observe that, by that report of January 1, 1875, the fixtures of that bank were put in at \$1,748.98? A. I have nothing to do with that report; I didn't see that at all.

Q. That was the report by the bank? A. Yes, sir.

Q. At what amount did you put in the fixtures in your report of January 13, 1876? A. Two thousand dollars.

Q. You don't think the fixtures were worth \$7,000? A. No, sir.

Q. Then had those fixtures been put in at their proper value by the bank officers, the reports would all have shown a deficiency? A. I do not know what they included in that; if it was merely the safe and fixtures, it was \$2,000.

Q. The report shows a surplus of \$1,923.69, counting the fixtures in at \$7,000; if you put in the fixtures at \$2,000, the bank report would have shown a deficiency? A. Yes, sir.

Q. Do you know whether the deficiency of this bank, which afterward appeared to you, ever was made up by the officers of the bank? A. It appears by the books to be made up.

Q. By that entry of the \$21,000 mortgage? A. There were other entries without any explanation, that appeared to have made up the deficiency; Mr. Freese always claimed that the trustees made it up, and always insisted upon it that they had, although I could find nothing of the kind to warrant that information until after the application was made to put it in the hands of a receiver; and, at one of my

visits, Mr. Freese explained to me, and his counsel, Mr. Hawkins, how this was made up by himself, as he asserted, in cash.

Q. You examined the bank again in August, 1876? A. Yes, sir.

Q. What did you find the condition of the bank then? A. They were about even, counting all the assets that I found there.

Q. You made it the amount you stated, counting in the mortgage as \$21,000? A. No; that had been taken up in the meantime, and exchanged for the Lesley mortgage.

Q. There were other mortgages in place of it? A. Yes, sir; by resolution of the trustees.

Q. What did you mean by the statement, "owned by the trustees — no title shown," in respect to those mortgages? A. There were some of those mortgages that had not been recorded; and others, Mr. Freese said, were at the clerk's office for record; I took those items from their books; they had nothing to show.

Q. What do you mean by the words "no title shown?" A. That was the title.

Q. You mean they had no title to the mortgages, because they were not recorded? A. They showed me nothing; it appeared on their books that they had those mortgages, but they did not show me any thing.

Q. What led you to suppose they had no title to the mortgages; you saw the mortgages upon the books; what made you suppose they had no title to the mortgages? A. When I make an examination I always see the paper.

Q. Is that the only thing that led you to think they had no such mortgage, "no title shown?" A. I think that the mark "no title shown" is in reference to a Brooklyn case where they said they had concluded to take the fee of the property instead of the mortgage.

Q. I show you now the report of your examination of the 9th of August, 1876, and I show you the pencil-mark opposite the words "Alexander M. Lesley, Beach street, 15,000; not recorded; no title shown;" the same memorandum in respect to another mortgage immediately preceding: "William Atwater, Bedford street property; owned by the bank; no title shown;" are those pencil memorandums in your handwriting? A. Yes, sir.

Q. State what you mean? A. The words "no title shown" probably refer to no abstract of title or any thing of the kind, because I saw nothing of the kind.

Q. Probably refers to the fact that you saw no abstract and saw no papers?

Mr. CHAPMAN — He don't say that.

The WITNESS — Of this Bedford street property I believe they had no papers, because they said they were in the hands of the attorney.

They had concluded to take the title in the name of the bank — two Lesley mortgages, \$15,000 ; they were not recorded until afterward ; no title shown ; and they had no abstract of title to show the transfer from Mulvaney in the former mortgage to Lesley.

Q. That was connected with the Mulvaney mortgage ? A. Yes, sir ; the same property.

Q. Did you consider yourself authorized, as an examiner of the bank, to put in that \$15,000 mortgage, and \$6,000 mortgage as assets of the bank, where there was no title shown ? A. As explained there.

Q. You considered it proper to do so, with the explanation ? A. Yes, sir ; I supposed they were first mortgages.

Cross-examination :

By Mr. CHAPMAN :

Q. I will ask you, Mr. Reid, at the time you made the examinations, as I understand you, you went down through the assets yourself, as appeared by the books ? A. Yes, sir.

Q. Then you put Mr. Freese, the secretary, under oath, and asked him in regard to those assets such questions as occurred to you ? A. Yes, sir.

Q. And, as the result of these investigations, you made the reports which have been shown here ? A. Yes, sir.

Q. There have been letters of yours introduced in evidence in which you wrote the Bank Department certain suspicions that you had in reference to some of these transactions ; they were written with the idea of conveying to the department all the suspicions you had in connection with it ? A. Every thing — yes, sir.

Q. At the time you made them, prior to the time of reporting the matter to the Attorney-General, had you succeeded in getting hold of any fact which authorized action upon suspicion ? A. Nothing.

Q. In proceeding to put the bank into the hands of the Attorney-General, you needed some *facts* to stand upon rather than suspicions, didn't you ? A. Yes, sir.

Q. In your various examinations, is it practically possible to go down through and hunt up the titles to all the mortgages that you find in all these savings banks ? A. I do not pretend to ; there are 32,000 of them in the State.

Q. Suppose somebody had a plea of usury against a mortgage, is there any possible way you can have of finding that out ? A. No, sir.

Q. Suppose there is a plea of infancy, is there any possible way you can find that out ? A. Nothing except what appears on the paper.

Q. Suppose you find a bond in the bank recently given, and they tell you the mortgage is off to the clerk's office for record; after you have sworn the secretary in regard to it, do you deem it to be your duty to go off to the clerk's office to hunt it up, and see whether there is any thing there? A. I never do.

Q. Unless there is something special attracting your attention to it? A. Yes, sir.

Q. Is it practically possible for you to go back to the prior transactions of the bank so as to verify the items you find in the bank-books the day of the examination? No, sir.

Q. Is it practically possible for you to find out the liabilities of the bank? A. No, sir; the only way is to have the bank-books called in.

Q. There has been talk here about a surplus and a deficiency; I ask you whether it is possible for a bank examiner, *practically* possible, for a bank examiner to find out whether there is an actual surplus or actual deficiency? A. It is not possible.

Q. Have you any means of testing the liabilities excepting such as appear on the ledgers in the bank, deposit ledgers, and general ledgers? A. I cannot state from the deposit ledger.

Q. Now, is it not true that there may be a difference between what appears to be the liability of the bank, on the general ledger, and the actual liability of the bank? A. Yes, sir.

Q. Is there any way of ascertaining the liabilities of a savings bank, except by calling in all the depositor's books? A. That is the only way.

Q. Take a bank that has 15,000 different depositors, I ask you how long it would take to call in the 15,000 depositor's books? A. I think you would get them almost all in in perhaps a year, and the others come dropping in in three, four and five years.

Q. These depositor's books may get scattered all over the country? A. They cannot go unless the holders of them do.

Q. You spoke about the deficiency and a surplus; that, as I understand you, is not given as an actual deficiency or actual surplus, but a constructive deficiency? A. Constructive.

Q. Depending upon the assumption that the liabilities are correct, and appear upon the books of the bank, and also upon the values which the parties may give to the assets? A. Certainly.

Q. So that, while one party may value a certain class of assets up, another party may value the same class of assets down; is that true? A. Yes, sir.

Q. So that the value to be affixed may depend, somewhat, upon whether the person doing it is a bull or bear in the market? A. Certainly.

Q. Is it not true in regard to the savings bank that we now have under consideration, that the first time you examined it the bank had only some \$34,000 of assets? A. I think only about \$20,000.

Q. I mean the examination in 1873? A. Only about \$20,000 or \$22,000.

Q. Or \$30,000? A. Something like that.

Q. And from that time down to the time you made the examination in November, 1875, and your examination in January, 1876, and your examination in August, 1876, there had been a constant increase of assets, had there not? A. Yes, sir.

Q. Of deposits? A. Yes, sir.

Q. I will ask you, Mr. Reid, whether if, instead of during Mr. Ellis' administration, there had been an appreciation of values instead of depreciation of values, if, in your mind, there would have been any difficulty in this bank's going on to success; suppose, instead of the property constantly shrinking in value, it had been constantly rising in value, or remained stationary? A. That made a difference, of course.

Q. And that is the case with all banks, is it not? A. Yes, sir.

Q. There has been a constant shrinkage in values since about the time, or very soon after the time, Mr. Ellis went into the department down to the present time? A. Yes, sir; since September, 1873; certainly.

Q. Constantly and steadily going on? A. Yes, sir.

Re-direct-examination:

By Mr. OLMSTEAD:

Q. Look at the report made by the bank January 1, 1876, and state what assets appear there that would be affected by a shrinkage of their market value? A. I cannot tell from this statement; I have not the items.

Q. You say bonds and mortgages? A. Yes, sir.

Q. There ought not to be any shrinkage on those? A. Not if they are good mortgages.

Q. Take these stocks and bonds as contained in the printed book—their cost price is \$21,260; their par value \$31,500; the estimated market value \$32,550; there was no shrinkage there? A. I cannot tell you what they were.

Q. Their market value was above their cost price; then you find below that—

Loan on stocks, etc.:

Cash on deposit.....	\$10,077 70
Cash on hand.....	10,915 00

There ought not to be any shrinkage there? A. No, sir.

Q. The amount loaned on collateral, \$11,000; there ought not to be any shrinkage on that? A. That is to be decided yet.

Q. If they were loans improperly made, there ought not to be a shrinkage? A. There is a question about \$5,000 of it now.

Q. You have the excess of market value of stock over the investment, etc.; if these investments were properly made there could not be much shrinkage, from the nature of things? A. No, sir.

Q. You were in the habit of getting at the assets of bank stocks and railroad bonds or State bonds and such securities? A. I generally get those on the stock market from the report.

Q. Get reports at the time as they are during the time you make the examination? A. Yes, sir; and the best information I can.

Q. In all these cases you made your report under that theory? A. Yes, sir; I am well acquainted with the price of various bonds.

Q. In the case of this particular bank, the Trades' Savings Bank, so far as you know, was there any difference between the amount entered upon the depositors' ledger and upon the general ledger? A. I don't know any thing about it.

Q. Have you never heard any thing respecting this particular bank? A. No, sir.

By Senator EMERSON:

Q. Mr. Reid, did I understand you when the Mulvaney mortgage was reported to you, that you saw a bond accompanying the mortgage? A. I think I did, but not the mortgage; I never saw that mortgage.

By Senator HARRIS:

Q. Did you see all the bonds and mortgages reported to the department, in your report of January, 1876? A. I think I saw all the mortgages.

Q. Were they all recorded? A. Yes, sir; their regular mortgages were recorded.

Q. The Mulvaney mortgage? A. I did not see that.

Q. Was that in the amount you reported in the assets? A. Yes, sir; I saw the bond.

Q. I am speaking about the mortgage? A. I did not see it.

Q. Then your answer was not correct a moment ago, that you did not report any but mortgages that you saw; I understood you to say that you did not report any mortgages that you did not see? A. I did not, but—

Q. My question is whether you saw the Mulvaney mortgage? A. I did not see the mortgage itself.

Q. Do you know whether that was ever recorded ? A. It was recorded afterward.

Q. When ? A. It was some months ; I think the next June or July, when they wanted to sell the property to Mr. Lesley ; whenever the time was, I think it was recorded just before the transfer to Mr. Lesley.

Q. Were you in the habit of reporting upon examinations of this bank and other banks on mortgages which you did not see ? A. If I find a mortgage entered regularly, and I find all the other papers and the mortgage is stated to be at the clerk's office —

Q. That is not an answer to the question ; were you in the habit of reporting as assets mortgages that you did not see ? A. I have done so.

Q. What did you mean by saying you could not find the liabilities of the bank unless all the depositors' books were brought in ? A. To ascertain how much they owed their depositors.

Q. Do you mean by that, that no bank keeps a correct account ? A. I say I cannot test it accurately.

Q. If they keep correct books, you can tell ? A. Yes, sir.

Q. If they keep correct books, you can tell how much they owe ? A. Yes, sir.

Senator SCHOONMAKER — I would like to know whether that bank was solvent or insolvent in January, 1876 ?

Mr. McGUIRE — I object to the question. The Senate is to determine that from the facts reported by the examiner. That is a conclusion. His examination is reported to the Bank Superintendent as a fact, and I suppose the conclusion is to be come to, as the fact is reported.

Senator SCHOONMAKER — I want to know what the actual condition of the Trades' Bank was in January, 1876. The question is, was that bank solvent or insolvent in January, 1876 ?

Mr. McGUIRE — To that the respondent objects, as a conclusion which must be determined upon the facts reported.

Mr. CHAPMAN — Of course it is a very unpleasant thing for counsel to make any objection to any question submitted by the court, but at the same time it seems to me that the question here on trial is not so much whether this bank was actually solvent or insolvent in January, 1876, as it is whether it appeared to Mr. Ellis at the time to be unsafe or inexpedient for it to go on doing business. That seems to be the question under the law, and not whether in reality, as it was subsequently discovered, discovered long subsequently. It reports the facts that there is a surplus.

Senator SCHOONMAKER — I wish to ask the witness whether he re-

ported this bank to Mr. Ellis in January, 1876, as being in a safe condition to continue business.

Mr. CHAPMAN — It appeared from the report that it was a surplus.

Senator PRINCE — Mr. President, I do not question that report was made in writing, and I object to the question as entirely improper.

Senator SCHOONMAKER — I insist upon my question, which is, did you report the Trades' Savings Bank to Mr. Ellis in January, 1876, as being in a safe condition and ready to continue business?

Senator PRINCE — I ask for a vote of the Senate upon that question. I will merely remind the Senators that this report is made in writing, and is competent testimony.

Senator GERARD — Mr. President, for the purpose of stating the reasons of my vote, I will say, if the answer to this interrogatory is embraced in a written report in the evidence before us, I think the question is an improper one; but, as I understand the case, it applies to any other report, and does not necessarily apply to the report that has been alluded to by the Senator from the Twentieth district; it may have been another, and for that reason and in that view, I will vote in the affirmative.

The President submitted the question to the Senate whether the proposed question should be received, and it was decided in the negative.

By Senator SCHOONMAKER:

Q. Did you make any report to Mr. Ellis or to the Bank Department, except the report in the printed book? A. Except what you have had here; those are the only reports; all that have been admitted in evidence, all that have been put in evidence.

Q. Did you make any other entries than those put in evidence? A. No, sir.

Q. Did you have any communication with him, of any kind, in reference to the condition of that bank in the winter of 1876? A. I may have had conversations with him; I made no communications to him.

Q. Did you have any conversations with him about the condition of that bank? A. I do not know that I did any thing special; I do not know but I did; when he came down to New York, we were in the habit of talking over all these banks that were what we called the poorer class of banks.

Q. I do not want to know about the other banks; do I understand you to testify that this bank was insolvent in 1876?

Senator PRINCE — I object to that as being a question already ruled upon by the Senate and excluded.

The Senate hereupon adjourned to July twenty-seventh, at 10 A. M.

SARATOGA, July 27, 1877

The Senate met pursuant to adjournment, at 10 o'clock A. M., a quorum being present.

Samuel D. White, a witness on behalf of the State, being duly sworn, testified as follows:

Examined by Mr TRACY:

Q. Where do you reside? A. In New York.

Q. What is your business? A. President of the Grocers' Bank.

Q. Have you your subpoena with you? A. Yes, sir.

Q. It calls for all books, documents and reports in your possession in connection with the Trades' Savings Bank; have you brought them? A. I brought some memoranda; the books I was not able to bring; was not able to get them ready, as they were large and voluminous.

Q. Have you brought with you the book of minutes of the trustees? A. I have not seen them.

Q. From whom did you receive the books and papers that you have? A. Mr. Ellis put me in possession, and the officers of the bank.

Q. Have you not seen the minutes of trustees for 1876? A. Never have seen them.

Q. Do you know where they are? A. I do not; I have a large assortment of books, which were boxed up and in an office in the city, but I have never opened them and never have examined them to see what there is or what they were.

Q. You were subpoenaed to bring those books? A. I received a subpoena in relation to books as a witness, but they were not books which I could testify to—any thing relating to the condition of the bank—at all.

Q. The subpoena reads as follows: "All books, documents, reports, records, minutes and papers in your possession or under your control showing the condition or relating to the condition of affairs of the Trades' Savings Bank, in the city of New York, subsequent to the 1st of January, 1873." A. They were books and papers, but not books and papers I could produce as books and papers of the Trades' Savings Bank as a witness.

Q. Why? A. Because I do not know any thing more about them than you do.

Mr. TRACY—I ask that the witness be directed to produce the books and papers.

The WITNESS—They were very large and heavy, and impossible for me to bring them, and I understood there was difficulty in getting them here. I received this notice a few hours before I had an oppor-

tunity to leave. The books I have never opened and never have seen; do not know what they are. I presume the books you require may be in my possession.

Mr. TRACY—Mr. President, I ask that the witness be directed to produce those books and papers in a reasonable time.

The WITNESS—I will furnish them, or direct them to be sent to you, with the greatest pleasure in the world, if you desire to have them; but I am not familiar with the handwriting of any of the entries in the book. I cannot explain any thing in the book.

Q. That is another matter? A. I have no knowledge of what they are except as books.

Q. That is another matter? A. My authority did not give me possession of those books; it was only in possession of the assets of the bank.

Q. Have you those books? A. The books belonging to the Trades' Savings Bank; what they are I am unable to say.

Q. Have you in your possession books to which you have just referred? A. What ones?

Q. The box of books to which you have alluded? A. I have numerous books of the Trades' Savings Bank.

The PRESIDENT—Mr. White, you will produce the books with all reasonable speed?

The WITNESS—I will.

By Mr. OLMSTEAD:

Q. Have you in your possession a copy of any portion of the minutes of the trustees' meeting, January 1, 1876? A. I have not such a document at all; never have seen the minutes, nor know of the existence of any.

Q. What assets of the bank have you received? A. I have the receipts here; I was directed to deposit the assets in a trust company; Mr. Ellis and myself took them to the trust company, and the trust company gave me this receipt for them.

Q. Does that paper contain a list of the assets? A. Yes, sir; the receipt does.

Q. Read it? A. [Witness reads the paper, which is as follows:]

STATEMENT of *Securities received from Samuel D. White, Receiver of the Trades' Savings Bank, pursuant to an order of the Supreme Court, dated the 25th of October, 1876, and subject to the provisions of the said order.*

BONDS AND MORTGAGES.

No. 1. Alexander M. White and wife, assignment	\$7,500
" 2. " " " "	7,500
" 3. William Atwater, an assignment to Samuel H. Mills, Jr.....	6,000
" 4. Michael Grace & Co	3,000
" 5. Michael Grace & Co., with an assignment covering bonds and mortgages for \$3,000 each.....	3,000
" 6. John McCool and wife, with two assignments from Henry Cram to Theodore W. Freese, and Freese to the savings bank	9,000
" 7. Ditto — with the same assignment for	8,000
" 8. Conrad Boller and wife, an assignment of	5,000
Total amount, bonds and mortgages.....	<u>\$49,000</u>

LAND LOANS.

Note of Isaac Striker	\$50 00
One hundred dollars U. S. 5-20 bonds, 1865, No. 145 collateral	100 00
There is another note of \$100 of M. A. Keller, with the same collateral of U. S. bonds. "The collateral is \$200 for the payment of \$150 note of M. C. Baker of \$100, with two U. S. bonds of \$50 each as collateral.	
Note of James R. Demarest, sixty days after date, indorsed by Z. W. Butcher	162 50
Note of Z. W. Butcher, one day after date, not indorsed,	427 80
Note of Edward W. Newan, on demand for	10,000 00
Also, receipt of S. Kininan, for a mortgage of \$10,000, held by him for collection, and also two checks, each of \$5,000, to be deposited as cash.	

Q. That is all? A. Yes, sir.

Q. That is all on that paper? A. Also two checks that I have read.

Q. What was the amount of the checks? A. Two checks, \$500 each.

Q. Have you with you the order appointing you receiver? A. Yes, sir,

Q. Let me see it? [Witness produces paper.]

Senator WOODIN — Is there any question about the legality of this appointment?

Mr. OLMSTEAD — No, sir; I want to show what the assets are.

Senator WOODIN — Then what is the necessity of consuming time?

Mr. OLMSTEAD — It is a question of what the trust company received from him; this is the usual order appointing a receiver.

Q. From whom did you receive the assets of the bank? A. Mr. Ellis; I was instructed to meet him at the bank and take possession as he put me in possession.

Q. Did you meet him at the bank? A. Yes, sir.

Q. On what date? A. I think the date of the receipt, for I went immediately to the trust company.

Q. The same date as the order? A. I imagine so; yes, sir.

Q. Were these the assets, documents, that were given to you there? A. Yes, sir.

Q. Are those the only papers or books, or memoranda, belonging to that bank, that you received from any party? A. No, sir.

Q. I want to know what you have received from anybody as receiver? A. This is the list of the assets; the books and papers are in my possession probably; they are in an office which I have hired for the purpose of closing up the affairs of the bank; what books they are I am unable to say; I am unable to say what there is; I was instructed to take possession of these assets and to ascertain the indebtedness of the bank with the exception of the ledger.

Q. Did you receive a bond and mortgage of Alexander M. Lesley and wife? A. Yes, sir.

Q. With the assignment? A. Yes, sir.

Q. Is that a first or second mortgage? A. I do not know as I can state; I was not familiar with the legal quality of the bond and mortgage, perhaps.

Q. Don't you know what we mean by a first and second mortgage? A. Yes, sir; I understand there were two or three mortgages made one day, and I understand there is a question about them.

Q. The amount of mortgages is \$49,000? A. Yes, sir.

Q. Can you state what part or portion of those mortgages are in litigation? A. All of them are.

Q. All of them foreclosed? A. Yes, sir; some of them have been foreclosed and disposed of.

Q. Has there been any recovery on any of them? A. Yes, sir.

Q. On what one? A. There are two bonds and mortgages on houses and lots in Box street, Brooklyn, for \$3,000 each, which have been foreclosed, and the net proceeds of which I have received.

Mr. McGUIRE—Mr. President, while we do not wish to be regarded as technical, as raising objections from time to time, we do think it our duty at this stage of the case to interpose an objection to all this species of proof; what transpired long after this bank was put into the hands of a receiver has no bearing or applicability to any charge made, or that possibly could be made, either mentally or otherwise, against the superintendent, and we desire our objections noted against this species of evidence.

Mr. OLMSTEAD—Mr. President, we do not propose to go any further than simply to find out how much this gentleman received.

The PRESIDENT—To inquire into the character of the assets?

Mr. OLMSTEAD—That is all.

Mr. McGUIRE—Mr. President, the counsel says he don't propose to go any further than to show the amount received from the sale of assets; I understand the President to say that he proposes to show the character of the assets.

The PRESIDENT—The counsel proposes to show that for the purpose of showing the character of the assets.

Mr. McGUIRE—We object to any proof as to what those assets sold for.

The PRESIDENT—The chair is of the opinion the testimony is competent to show the real character of the assets of the bank, and, if there is any testimony in that direction, the chair is of the opinion that it is competent.

Mr. McGUIRE—I desire the reporter to note the respondent does not object to showing the character of the assets; he objects to any proof showing the amount of assets brought upon a sale of the mortgage.

Q. Go on with the answer. A. Will you be kind enough to state the question?

Q. You were about telling what had been the result of the foreclosure? A. Two bonds and mortgages on houses and lots in Box street, Brooklyn, for \$3,000 each, have been foreclosed, and judgments obtained and property sold; one realized the net proceeds \$313.25; another, \$181.32.

Q. Go on. A. One bond and mortgage on house and lot in Bedford avenue, Brooklyn, \$6,000; afterward obtained judgment and foreclosed; realized \$4,478.96; those are the only three mortgages I have realized from; if you will permit me, I will state the condition of the others; bonds and mortgages on two houses and lots in Eighty-third street, between Eighth and Ninth avenues, New York city, for \$22,000; foreclosed, and judgment obtained, and is now advertised for sale on August ninth; defenses were put in on those mortgages; the party has since disappeared; I don't know where he is, and the

foreclosure suit was allowed to come to an end; we have a decree to sell; it is advertised to be sold on August ninth; there are two bonds and mortgages on Bond street, New York city, for \$17,000; it was foreclosed; now pending; answers have been served in the case, and it will be tried, as soon as ready, this fall; that is the condition of the bonds and mortgages; in relation to the Kinman matter, the receipt for \$10,000 is collateral for a note of \$10,000 I have never seen; I only have the receipt of the attorney who had the bond and mortgage put in his possession before I was appointed receiver, and only have his receipt for it; he informs me that he is prosecuting that, but does not say when he will be able to realize; I believe that is about all the bonds and mortgages.

Q. You have only realized what you have stated you have realized on the bonds and mortgages; have you realized any thing more than what you have already stated? A. Yes, sir; I collected some of these small items.

Q. State how much in all you have realized from these assets?

Mr. CHAPMAN — We desire to have noted the same objection to that? A. I received altogether in cash, in all over \$8,757.51.

Q. Have you made a dividend? A. No, sir.

Q. How many depositors were there when the bank closed up? A. About 600, I think.

Q. What is the amount due the depositors?

Mr. MCGUIRE — We object to that.

The WITNESS — That is the trouble we have been laboring under.

The PRESIDENT — Have you not already proved that?

Mr. TRACY — No, sir.

Mr. MCGUIRE — The witness says he never looked at the book, and as a matter of course he cannot tell us by guess.

The WITNESS — Excuse me, if you please; I did not mean it to be inferred that I had not looked at the ledger to see the deposit account; I had referred particularly to the book of minutes and books kept by the bank upon which there were other matters besides the deposits, the two ledgers; the deposit ledgers I have had in my possession; I have been at work trying to ascertain the amount actually due the depositors; to do that, it would be necessary to have every bank-book produced and examine them with the ledger; and about two-thirds of them, I apprehend, have been brought in already; the balance is from five cents up to two or three thousand dollars apiece; it has been an immense labor; the amounts, so far as I ascertained, are about \$76,000 of deposits, and I think that is very nearly correct enough.

Cross-examination of *Mr. Samuel H. White*:

By Mr. CHAPMAN:

Q. As I understand, Mr. White, you cannot get at the exact amount due to the depositors until the depositors' books are called in?

A. It would be impossible to get at the correct amount so as to report that the bank had so much.

Q. I understand that you were appointed receiver; how long ago?

A. Last November.

Q. Did you instantly, or immediately after, commence endeavoring to get these depositors' books in? A. Yes, sir; I sent notices around to all, advertised that I desired the books to be sent in, and they came in at first very generally, but I have no doubt there are 200 out yet.

Q. They are scattered around, and you have not been able to get them in? A. Yes, sir.

Q. These assets, as I understand, you received from the officers of the bank in the presence of Mr. Ellis? A. Yes, sir, Mr. Ellis and myself both went there, and they were handed over to us.

Q. Mr. Ellis went with you to the trust company; Mr. Ellis accompanied you down to the trust company? A. Yes, sir.

Q. You received them under the order of the court? A. Yes, sir.

Q. Is this the order under which you received them? A. Yes, sir.

Mr. CHAPMAN—I read this in evidence; it is in the printed book.

Senator PRINCE—I understand the mortgages in Brooklyn only realized, one about \$100, and the other 300 odd dollars? A. Yes, sir.

Q. Were they first or second mortgages? A. First mortgages.

Q. On what was the mortgage that realized less than \$200? A. I think it was on a wooden building and lot; I will state that I found the taxes and assessments had not been paid for several years, and that was the reason why we did not realize any more; it sold for a larger amount than that, but not for an amount sufficient to pay the mortgage; there was a wooden building on it of two stories.

Q. How much was the mortgage? A. Three thousand dollars.

Q. Do you know how much it sold for—the gross amount? A. Not near as much as that; perhaps less than half.

Q. Are you able to tell *about* how much? A. No; I have not the amount.

Q. Can you state as to the \$300 mortgage? A. That was a duplicate of the other; sued next to it.

Q. On what street were they; Box street? A. I cannot tell you where, for I never saw them; it was not a very desirable location; the property sold for as much as they thought it was worth.

Q. What was the name of the street? A. Box.

Q. Do you know near what other streets it is? A. No, I do not; I am not very familiar with the locations in Brooklyn.

Q. What was the amount of the other mortgage? A. Three thousand dollars; they were each \$3,000.

Q. These mortgages were on a house and lot in each case? A. Yes, sir.

Q. They brought less than \$1,500 each on the sale? A. Yes, sir.

Q. Where was that sale held? A. It was advertised and sold by the sheriff, after the usual publication, at the City Hall, in Brooklyn.

Q. When? A. I have not the date:

Q. What year? A. the last three or four months; it has all been done within the last three months.

Q. I mean these sales? A. The reason why I disposed of these, in fact, I learned the assessments and taxes had not been paid, and I was fearful they would not realize any thing; and some of the depositors were anxious I should realize as fast as possible.

Q. You say this was considered to be a fair price at this time — by whom? A. By parties that were familiar with the property; I made some inquiries as to the value of the property in the neighborhood, and I found no one that considered it very desirable.

Q. State whether \$3,000 was not considered a fair amount for mortgaged property at that time, two years ago? A. I do not know.

Q. Do you know any thing to the contrary of that? A. No, sir.

Q. Do you know the amount of the assessment? A. I did not bring the particulars; the attorney furnished the items and the particulars of the sale and every thing, and this was the net amount I received.

Q. Do you know the amount of expenses your account ran up? A. No more than a reasonable expense; I can't give you the amount.

Mr. McGUIRE — Did you attend the sale yourself or leave it entirely in the hands of the attorney? A. It was attended to by the attorney; I did not attend the sale.

Q. The attorney furnished you with the amount of prior charges upon the property? A. Yes, sir.

Q. Did you make any examination to see whether the amount so furnished by him was correct or not? A. I did not examine the tax slips or any thing of that kind; it was submitted as the legal charges.

Q. In other words, you left the whole matter in the hands of your attorney? A. Yes, sir.

Q. Whatever statement he made, you assumed to be true? A. Yes, sir.

Q. Who was the attorney? A. Dexter A. Hawkins.

Q. And those executed by the attorney, or trustees or officers of the bank? A. None of those.

Q. None of those came into your possession? A. None of those that I foreclosed.

Q. Did any others come into your possession? A. Yes, sir.

Q. Which were they? A. The bonds and mortgages on Beach street.

Mr. MCGUIRE — Mr. President I would suggest there is no charge against the superintendent for any thing of the kind.

The PRESIDENT — It is an inquiry into the character of the assets, and it seems to me to be proper.

The WITNESS — The two of \$7,500, executed by Alexander M. Lesley and wife, on seventeen Beach street.

By Senator GERARD:

Q. Mr. Lesley was president of the bank? A. Yes, sir.

Q. How did they turn out? A. Those are now in process of foreclosure, answers having been put in.

Q. What has become of that.

Mr. MCGUIRE — I object to that.

The President — Evidence calling for the contents of a paper is not competent.

Mr. MCGUIRE — And it is objected to on the ground that it is immaterial.

Senator GERARD — Was there a defense put in.

Mr. MCGUIRE — Mr. President, I object to that also.

The PRESIDENT — The senate asks whether the defendants in the foreclosure suits have put in a defense; the chair is of the opinion that that testimony is competent; if the counsel desires to have the question submitted to the senate, it will be so submitted.

Mr. MCGUIRE — The counsel desires to have it submitted.

The PRESIDENT — I should have said, if any Senator desired; the rule is, if any Senator desires.

By Senator GERARD:

Q. What is the answer; whether any defenses have been put in? A. Perhaps an explanation will explain the whole of it; there were three — four mortgages made on the same day.

Q. By the same man? A. By the same party, and the two of \$5,000 each, held by a party by the name of Willis; who each put in a claim that theirs is the first mortgage.

Mr. MCGUIRE — Mr President, I object to that. I object to the contents of the answer.

Q. Is there any defense by the officers of the bank? A. No, sir.

Q. No defense from Mr. Lesley, the president? A. No, sir.

Q. Have you declared a dividend? A. No, sir.

Q. You are still in the process of liquidation? A. Yes, sir.

Q. Made no dividend? A. No, sir.

Q. Those mortgages are defended by somebody that you are foreclosing — they are in litigation? A. Yes, sir; I requested the attorney, when I wrote, to give me the explanation in relation to these mortgages, the condition of them, and he writes me that —

By the PRESIDENT:

Q. That is not competent, Mr. White; the question is simply whether there has any defense been put in? A. There has been a defense put in.

Q. Whether that defense has been put in by the mortgagor, that is? A. No, sir.

By Senator KENNADAY:

Q. Do you know the location of the house in Bedford avenue? A. No, sir.

Q. Do you know the number of the street? A. No, sir; I made some inquiries about that, and I found it was not a very desirable location; it was rather low, and not considered a very healthy spot; I thought I realized a very full price for it.

Q. That was sold recently? A. Sold at the same time that the other two lots on Box street were.

Q. The \$3,000 mortgage, that brought how much? A. The net proceeds was \$4,478.96, the mortgage was \$6,000.

Q. Was the advertisement of this property simple or ordinary publication? A. Bills were posted up around the neighborhood, and publication given to it very generally.

Q. Do you know whether there was any competition at the sale? A. There was on the house and lot on the Bedford avenue property; on the other two, not much.

Q. Was there more than one bid on the other? A. Yes, sir; I think there was.

By Senator WAGSTAFF:

Q. Do you know any thing about a \$5,000 mortgage on property in New Jersey; do you know whether the bank made a loan of \$5,000 on property in New Jersey? A. That was \$10,000; I don't know any thing about it; I never have seen that; I have seen nothing except the receipt of the attorney who has had it in charge for foreclosure.

Q. What did it realize? A. It has not been disposed of yet.

Q. Do you know who the mortgages on the Beach street property were originally made to? A. The two mortgages of \$5,000 were made to an estate, to which Mr. Willis is trustee or executor.

Q. Do you know whether they were made to Mr. Lesley — these mortgages on the Beach street property; were they assigned to Mr. Lesley, the president of the bank? A. My impression is they were assigned to Mr. Livingston, and by him assigned to the bank.

Q. By Livingston assigned to the bank? A. Yes, sir.

Q. Were they ever held by Mr. Lesley, the president of the bank? A. They were executed by him.

Q. Made by him to Livingston? A. Yes, sir.

Q. And by Livingston assigned to the bank? A. Yes, sir.

Q. Do you know when they were made? A. I cannot give you the date; it was some time within a year.

A. About a year ago? A. Yes, sir.

Q. Do you know any thing about the loan of \$22,000 on houses and lots in Eighty-third street; was there a loan of \$22,000 made by the bank on property on the boulevard and Eighty-third street? A. There are such mortgages in foreclosure now upon which the property is advertised for sale in August; they are mortgages which they had purchased; they were not made direct to the bank.

Q. Do you know the value? A. It is a difficult question to answer; I doubt very much whether the property is worth as much as the mortgage.

Q. Do you know when the mortgages were made? A. They were made several years since; they were made originally by the insurance company, and by that company transferred to somebody; there are two or three assignments attached to the mortgage.

Q. Do you know whether any of the minutes of the bank show the property? A. I have never seen any of the minutes of the bank since I have had any thing to do with it; I do not know that there are any minutes in existence.

Q. Who were the officers of the bank? A. Alexander M. Lesley was president and I. M. Freese was secretary; they are the only officers I have had any thing to do with.

By Senator PRINCE:

Q. What company was that mortgage made to? A. The "North America;" that went into liquidation some years since, and put in the mortgage, and was closed up.

Q. The mortgage was made some years ago? A. Yes, sir.

Q. Do you know what the value was then? A. No, sir; I think the appraised value was much higher than it is now.

Q. Do you know the fact that property in that town was worth then double what it is now? A. Yes, sir, I have no doubt about that.

Q. You know that, as a matter of fact, that insurance companies did not take mortgages for more than fifty per cent of the value of the property? A. That is my impression.

By Senator WAGSTAFF:

Q. When did the bank take this mortgage? A. I can't give you the date.

Q. About when? A. I could not say.

Q. What year? A. I could not answer that; I did not bring the date of the assignment.

By Senator ST. JOHN:

Q. Do you know the trustees? A. No, sir, I do not; I have never been able to ascertain; I have never found any that made their appearance; I have made some inquiries; I have heard and seen a list of names that purported to be trustees, but never found one that acknowledged that they were.

Q. It seems the bank was run by Mr. Lesley and Mr. Freese? A. Those are the only gentlemen I have heard of.

By Senator GERARD:

Q. How many mortgages were there made by Mr. Lesley that figure in the report, or that came into your hands? A. Two.

Q. Only two? A. Yes, sir.

Q. Were they made about the same date? A. I apprehend they were made the same day.

Q. Were they directly from Mr. Lesley to some other person, and then assigned; did the bank take them directly from Mr. Lesley? A. I don't know how or where the bank took it.

Q. What was the amount of those notes? A. Seven thousand five hundred dollars apiece.

Q. Both now defended? A. Yes, sir, but not by Mr. Lesley.

Q. Who are they defended by? A. By the party who holds another mortgage against the property.

Q. Second mortgage? A. That I cannot say; I cannot say whether it was first or second; they both are claiming them to be first.

Q. Do you say that the two Lesley mortgages were given the same day, the same hour, as the other two? A. I see they purported to be given at the same time, and recorded the same day.

Q. Then there is a question of precedence? A. There is a legal point; that is the defense.

Q. When was Mr. Lesley president? A. He was president up to the time they closed.

Q. And at the time these mortgages were given? A. Undoubtedly; I suppose so; I did not know any thing about the bank; I never was in the bank until the day I took possession of the bank.

Mr. MCGUIRE—The record of evidence in the case all shows the mortgages were not given by Mr. Lesley to the bank.

Examination continued.

By Mr. MCGUIRE:

Q. Did you ever see this Brooklyn property that you have mentioned? A. No, sir; not to my knowledge; I never went to see it, at any rate.

Q. Then all that you know about the property, whether it is a wooden house or whether it is an unhealthy locality, is from inquiries which you say you made of other parties? A. Yes, sir.

Q. Where did these persons live of whom you made inquiries? A. One of them lived in the neighborhood, and another one not far off, whom I directed to make some inquiries.

Q. You answered, or at least I understood you to answer, a question propounded by one of the Senators, that on one piece of property there were two bids; did I understand you correctly, in your examination some time ago, that you were not present at the sale at all? A. I was not present.

Q. Then how do you know there were only two bids? A. From information.

Q. From what you were told? A. From information.

Q. Have you examined any of the property covered by any of these mortgages? A. Not particularly; no, sir.

Q. If you can, Mr. White, you will oblige by stating, as near as you can, the amount for which each piece of property in Brooklyn sold on the sale? A. I could not do that; I did not bring the statement which I had; I had a statement made of each one; I only credited the net proceeds.

Q. You can give an approximate amount? A. I have no idea at all.

Q. You stated the net amount paid over to you? A. Yes, sir.

Q. Was the charge of counsel for foreclosing deducted from the amount of the sale? A. The legal charges.

Q. You know the fact that your attorney deducted from the amount of the sale his charges for his services; he was paid out of the proceeds? A. He was paid out of the legal charges, I understood.

Q. You put then his claim as one of the legal charges? A. Yes, sir.

Q. Upon the fund realized from the sale? A. There were no counsel fees; it was only the fees of foreclosing.

Q. Can you state the amount? A. I could not answer.

Q. Were any receipts furnished you by the counsel who conducted the business? A. No, sir.

Q. Either as to the amount of the sheriff's charges or his charges? A. He furnished me a bill of particulars of the sheriff's charges, and each item was specified what it was for.

Q. That is a statement made by himself? A. Made by the sheriff, I suppose, to him.

Q. Which is the fact, whether made by the sheriff to him, or he made it to you? A. He made it to me; the sheriff made it to him.

Q. That is the way you suppose it was? A. That is undoubtedly the way it was done, I think, sir.

Q. You mentioned one mortgage that you realized some 4,000 and some odd dollars upon; which mortgage was that? A. It was on the brown stone front house on Bedford avenue.

Q. Then this brown stone front is on the same avenue as these wooden buildings? A. No, sir; I do not understand that.

Q. What street are the two wooden houses upon? A. On Box street; I can't tell you where that street is; I can't tell you for I do not know.

Q. What was the amount of that mortgage? A. Three thousand dollars.

Q. Do you mean the brown stone front? A. Yes, sir; that was \$6,000.

Q. Did you ever see that house? A. No, sir; I did not.

Q. You cannot give us any description whatever of that house or its locality? A. No, sir.

Q. You left that explicitly to the management of your counsel? A. Yes, sir.

Q. Who was your counsel? A. Dexter A. Hawkins.

Q. Of New York city? A. Yes, sir.

Q. That was the net amount 4,000 and some odd dollars reported by you? A. Yes, sir.

Q. Can you tell what the property sold for in the aggregate? A. No, sir.

Q. Whether it was for the amount of the mortgages or otherwise? A. No, sir.

Q. Can you tell the amount of charges that were charged to the fund upon the sale? A. I cannot, sir; I had a bill of particulars sent to me.

Q. You have all these papers at home? A. Yes, sir.

Q. Laying the amount of these charges? A. Yes, sir.

Q. You have been interrogated at some length about the mortgages upon the Beach street property; can you state whether Mr. Lesley gave those mortgages directly to the bank or not? A. I think not I stated it was given to Mr. Livingstone.

Q. And the assignment was from Livingstone to the bank? A. That is my impression; I have not the documents with me.

Q. These three mortgages in Brooklyn, are all the mortgages that have been realized upon? A. Yes, sir; on the others no sale has been had; we have a decree to sell on the Eighty-third street property on the ninth of August.

Q. What is the amount of that mortgage? A. Twenty-two thousand dollars; there are two other mortgages; they are on two houses.

Q. Is there any litigation about any of the mortgages except these two mortgages assigned by Mr. Livingston to the bank? A. None now; there has been on the Eighty-third street property.

Q. They put in an advance for delay in that case? A. I don't know what their object was.

Q. When it came to the trial, nobody appeared for the defense? A. When it came to trial the gentleman was missing.

Q. The attorney was missing from court also? A. I suppose so.

Q. Don't you know that defense was merely interposed for delay; A. I don't know any thing about it.

Q. You never communicated to Mr. Ellis in any way that these mortgages were being defended? A. I think not to Mr. Ellis; no, I think not.

Q. You do not know that he had any knowledge of these sales in Brooklyn, or these defenses to the mortgages? A. I think not.

Q. And the condition of the four mortgages you know nothing about except such as your attorney has communicated to you? A. That is all I know about.

Q. You do not know whether there is any defense other than what you have stated, that the question is to the priority of liens upon these four? A. Yes, sir.

Q. Are you acquainted in Brooklyn? A. Not much, sir.

Q. Do you know Bedford avenue, in Brooklyn? A. I know there is such an avenue, but I could not go to it.

Q. Have you ever been on the avenue? A. Yes, sir; I think I have.

Q. Do you know it is one of the best parts of the city? A. A large, wide avenue; yes, sir.

Q. And a desirable place? A. Yes, sir.

Q. Don't you know from what you have heard about it that to make a loan upon real estate, upon Bedford avenue, in the city of Brooklyn, would be a safe and expedient loan for any institution? A. It would, undoubtedly, sir, unless it was at too high a price;

Bedford avenue is a very desirable avenue and very desirable location, and undoubtedly improving constantly; worth more some years hence than now, perhaps.

Q. What was the amount of this mortgage assigned by the insurance company to this bank? A. There were two mortgages of \$9,000 and \$8,000 each, amounting to \$17,000; the \$5,000, making upwards of \$22,000, I think, came from another source; I am not positive in relation to that.

Q. Didn't that also come from an insurance company? A. I could not say; I think very likely; I don't know; they were altogether with the assignments attached to them.

Q. Those mortgages are not collected yet? A. No; we have a decree to sell on August ninth.

Q. On these very mortgages? A. Yes, sir.

Q. That property is located where? A. Eighty-third street, between Eighth and Ninth avenues.

Q. And these three mortgages, coming from this insurance company, are nearly one-half of the mortgages held by this bank? A. Yes, sir; perhaps nearly the whole amount; there was a payment made on each of the two mortgages.

Q. Payment had been made? A. Yes, sir.

Q. Had the interest been paid promptly on them? A. Yes, sir.

Q. So, when you was appointed receiver, were there any interest due and unpaid? A. I think the interest was paid up quite promptly, up to that time.

Q. What amount of principal had been paid upon these mortgages upon which there had been a payment made? A. I think there was \$2,000 paid on one, and perhaps one on the other.

Q. Don't you know the fact from an inspection of these two mortgages given by Mr. Lesley to Mr. Livingston that these mortgages were given in less than a week before the bank was put in insolvency? A. No; I do not.

Q. That is, that there is one week's difference between the date of those mortgages to the time that the bank was reported to the Attorney-General; don't you know that fact? A. No, sir; I never looked at the date of the assignment.

Q. Didn't you learn that; you say you had 'interviews with Mr. Ellis; must have had, when you were appointed receiver; didn't you learn the fact that the Banking Department put this bank over to the Attorney-General upon the ground of the suspicious character of these two mortgages? A. No, sir; I never heard of any thing in connection with suspicions about these mortgages; do not know now when the date of it was.

Q. You say the two mortgages were given about a year ago? A. Yes, sir; I judge so, because I understood they have sold this property and the mortgages, but I don't state that of my own knowledge, sir.

Q. But you have seen the mortgages? A. I did not examine the dates, but I examined the assignments.

Senator WOODIN — I understand him to say that he has the receipt of the attorney for some one of these mortgages. Perhaps that will give the date.

Mr. McGUIRE — That is the mortgaged property in New Jersey. The receipt you have is for the mortgaged property in New Jersey? A. That was the receipt of the attorney.

Q. You took them to the trust company? A. Yes, sir.

Q. But you got them at the bank? A. Yes, sir; and took them to the trust company.

Q. So that the mortgages were in your actual possession from the time you took them from the bank and deposited them in the trust company? A. Yes, sir.

Q. Didn't you look at those mortgages when you took them from the bank, to see the amount and their date? A. I did not examine the date.

Q. And to get an idea of their general character? A. No, sir; the treasurer of the trust company and I sat down and made a list of these things, and it appears thus in this way: "Alexander M. Lesley and wife, an assignment, \$7,500;" they were numbered, that was all; merely put upon them to designate.

Q. Simply the number and amount? A. That was all.

Q. No date either of the mortgage or assignment? A. No, sir.

Q. Do you know the fact the assignment bears the same date as the mortgage? A. No, sir.

Q. Had the mortgages, or either of them, been in your actual possession since you deposited them in the trust company? A. Yes, sir.

Q. When did you get them from the trust company? A. The court issued an order for me to take them from the trust company, and proceed to collect them.

Q. And then you passed them immediately to your attorney, Mr. Hawkins? A. Yes, sir.

Q. And they are now in his possession, I suppose? A. Yes, sir.

Q. Mr. White, do you know this young man that was sitting by Senator Wagstaff? A. I know him by sight; I have no acquaintance with him.

Q. Do you know where he resides ?

The PRESIDENT — How is that material ?

Mr. McGUIRE — It is only preparatory to another question that I propose to ask.

A. In the city, I suppose, sir.

Q. Has this young gentleman been interesting himself to remove you from this office of receiver ? A. He has been instituting some proceedings, I don't know what ; he has called meetings —

The PRESIDENT — How is that material ?

Senator WOODIN — I would like to hear it, if the presiding officer has no objection ; I want to know something about what influences are at work here ; I see they are very lively this morning.

Senator SCHOONMAKER — I do not believe any extraneous influence will disturb the Senator from the Twenty-fifth district or myself.

Senator WOODIN — Perhaps not.

Senator SCHOONMAKER — Or any other Senator.

Senator WOODIN — I could not say.

Senator SCHOONMAKER — I object to it.

Senator WOODIN — It is only material for the purpose of enforcing the rule that nobody shall occupy the seats of Senators, except Senators. If it is a fact that some person who has interested himself in the management of the affairs of the closing up of this bank is circulating around here suggesting questions to Senators, I think that the fact brought out once will determine the Senators upon occupying their seats themselves, and not allow outsiders to occupy them.

Senator SCHOONMAKER — It has no business upon the record of this trial ; no part of the proceedings of this trial. The Senate is competent to take care of its own dignity. I will stand with the Senator in all that he has said or proposes to do in respect to the removal of that kind of interference.

The PRESIDENT — The chair is of the opinion that the testimony has no relation to this inquiry. If the Senate wishes to go into the inquiry, in reference to enforcing the rule in any particular case, it is addressed to the Senate.

Mr. McGUIRE — Mr. President, I will state that I did not know — I am not tenacious about presenting the question — I did not know but the examination upon the line of inquiry which I was pursuing might develop the fact as to the disposition of this property as bearing upon the question of the character of the assets. I do not care to follow it up.

Mr. OLMSTEAD — I would respectfully ask that the Senate direct this witness to bring or send at once to the clerk of the Senate the documents I have requested. :

The PRESIDENT—The witness advises the chair he will produce what the counsel request.

Senator PRINCE—Mr. President, I would like to have the witness bring the information: in the *first* place, how much these pieces of property sold for at the sale in the aggregate; and *second*, the legal questions of the sale; *third*, the amount of accrued taxes and assessments in these three pieces of property.

Q. Do I understand you to say that the property in Bedford avenue was in a low locality? A. No, sir.

Q. Did I understand you to say it was in an unhealthy locality? A. I understand it was located in rather a wet spot, and that it was not considered a very desirable location for a dwelling-house.

Q. Do you know a brown-stone house in Bedford avenue in a wet locality? A. I do not know.

Q. Do you know of a brown-stone house in Bedford avenue two or three years ago that was not worth \$3,000? A. I do not know of any.

Mr. OLMSTEAD—I respectfully ask that an attachment issue against the witness.

The PRESIDENT—The witness says he is willing to produce any book or paper that may be described by counsel or desired.

Mr. OLMSTEAD—Mr. White, have you in your possession all the bonds and mortgages and assignments held by the bank? A. No, sir; I have not any of them.

Q. Where are they? A. Those that have not been foreclosed are in my attorney's hands, Mr. Hawkins.

Q. Have you control over them? A. Yes, sir; probably have.

Mr. OLMSTEAD—I think the witness is bound to produce them.

The WITNESS—I will furnish them any thing I have.

Mr. TRACY—If your honor please, we do not desire to offer any further evidence in this case except those matters that we have now called for, and the necessary explanations that belong to them. We now ask leave to give testimony in the case of the People's Savings Bank.

Senator WOODIN—Mr. President, this trial is proceeding at a cost, I may be allowed to state preliminary to a motion that I am about to make, of at least \$700 a day to the State of New York, and how much to the respondent I do not know. Proceeding at this rate we shall not finish it before snow flies. Here are eleven different charges proposed to be investigated. We have gone through nearly two of them. A month of time was taken in the examination of these banks before a committee of the Senate, where both prosecution and respondent were heard. Now I submit that the Senate, at this point, should call upon the respondent to make his answer, and give his

testimony as to the two banks which the Senate, in committee of the whole, so to speak, has investigated, and that, at the conclusion of the examination of those two banks, the Senate shall take its order whether it proceeds with the other examinations as to the matter, and I submit that motion to the President.

The PRESIDENT — The Senator from the Twenty-fifth moves that the respondent be now directed to make a defense to the testimony relating to the two banks.

Senator WOODIN — I did not mean to confine it to the two banks, but that the respondent make such answer as to the two banks, and as to the other banks mentioned as he is advised, and that the Senate take such further order in the matter as it deems proper in regard to the other banks, if it sees fit, but that he may answer to the two already now considered.

Senator STARBUCK — Mr. President, in a judicial proceeding the motion made is an extraordinary one.

Senator WOODIN — That I understand very well.

Senator STARBUCK — And if the Senator from the Twenty-fifth is prepared to submit the proposition that the State is content to leave this whole question to be determined upon the developments concerning the two banks, and the calling upon the respondent to answer as to them, then we have a definite proposition before us; but if the purpose is to call upon the respondent to answer allegations concerning these two banks, and then, if he answers all satisfactorily, the State to fall back and take up an additional bank for investigation, I shall know at once how to vote; and I desire the Senator, before he takes the judgment of the Senate upon this question — if he will have the kindness to do so — to be a little more explicit, and to let us know whether we are called upon to conclude now, and that we will be content with the judgment that the Senate shall pronounce upon these two banks. Are we to take up the rest?

Senator WOODIN — If this was a judicial investigation or inquiry, I acknowledge the characterization the Senator makes of the motion that it is extraordinary; but it is not a judicial investigation. Now, when this case was before the committee of the Senate, they proceeded with the examination of the Mechanics and Traders' Savings Institution in the first place; and when the prosecution had introduced their evidence, they rested, and the respondent was put to his answer and he gave his testimony. That is the way they proceeded before the committee. They proceeded with, first one bank and then another; but that was the order of the proceeding all the way through, and I do not see why the Senate may not proceed in the

same way; and if the Senate have examined as to three or four banks, that it is perfectly competent and proper for them to stop the examination there, and then decide. Now, I am not willing to take the position, nor do I intimate any such thing, that we shall make an election here now whether we will stop with the investigation, without we have got through with the two banks; but the Senate will be able to judge for itself at that point whether they will continue the investigation as to the other banks, or as to whether to stop right there; and for the purpose of saving expense and saving time, I want the respondent to make answer as to the charges in regard to the Third Avenue Bank and the other banks, and when he has made his answer and given his testimony, if the Senate sees fit to prosecute the investigation as to the other banks; as to that point I have no objections. It is only for the purpose of saving time and expense; that is all the object. It is not with the view of communicating any thing, but it is with the purpose of getting the answer. I may be a little more explicit. The counsel for the respondent stated in his answer, that they admitted that the disclosures as to the Third Avenue Savings Bank, up to a certain point, were sufficient to put the Superintendent of the Banking Department in motion. Let us hear his answer. It may be entirely satisfactory; it may be perfectly satisfactory to the Senate; and if so, they will direct the investigation to go on, as to the other banks, after they have heard the evidence. I should have made this motion yesterday, if the Superintendent of the Banking Department had been here, so that he could be examined if he desired.

Senator HARRIS — Mr. President, it seems to me, as I understand the proposition of the Senator from the Twenty-fifth, that it is not only a very judicious one, but that it is eminently proper at this time, and I disagree with the Senator from the Eighteenth that it is not even judicious, although we are not sitting here exactly in a judicial capacity. It is a common occurrence in the courts where there are several distinct issues, that the judge directs that the testimony both for and against each shall be taken separately, and that the testimony shall not be run in all on one side on eleven distinct issues; and then the defense comes out, on all the issues together. It is wise that such directions shall be given in these cases. We have there the prosecution resting upon the Third Avenue Savings Bank. They have rested their case on that issue. Now, if they are to go on and give their testimony on the other banks here, there are not many men around this circle that can keep the testimony distinct in one bank from the other? Already I apprehend the testimony in regard to the Trades' Savings Bank is in the minds of some

Senators somewhat confused with the testimony taken in regard to the Third Avenue Savings Bank, and it is eminently proper that the testimony upon each one of these banks, *pro* and *con*, shall be taken together; after we have finished one bank, then proceed with another. Whether we shall proceed thus all the way through is a matter for the counsel for the State and the counsel for the respondent and the Senate to consider hereafter, but if the proposition is to take the testimony and answer of the respondent as to the testimony given by the prosecution for each distinct bank, separately, I think the proposition or motion of the Senator from the Twenty-fifth is an eminently proper one. I cannot see that it is any disadvantage to either the State or the respondent, but it will work a great advantage in keeping separate the testimony in relation to each one of these banks.

Senator STARBUCK — Mr. President, I have not opposed the motion of the Senator from the Twenty-fifth, but when up before, I was up to ascertain its scope, and just what he meant by it. I arise now to suggest, that before the Senate acts upon this question, common courtesy would require that we should hear briefly the views of counsel for the State upon the subject; and I ask now the counsel, whether there is any one or two additional banks concerning which, from their knowledge as counsel, they desire to give further testimony. If there is any thing of that kind, they have a right to be heard. While I am up, I will also inquire, whether or not the course suggested on the part of the Senator from the Twenty-fifth may seem to the defendant's counsel something like a prejudging of the case. I would also like that, when the Senator and myself agree that his motion is a wise one, and that we will follow that line of action on the trial, it have the assent of the counsel for the State, also the assent of the counsel for the accused. We will then have a trial and result of which no person can complain.

The PRESIDENT — Undoubtedly the counsel on both sides can be heard.

Mr. TRACY — Mr. President, our instructions were to come here and present the proofs, and to make such advocacy as we deem proper upon all the matters which have come before the Senate, under the Governor's communication. We are ready to do so, and attempt to proceed orderly by taking one bank at a time. We are ready now, and shall be as fast as the cases arise, to go through the whole series, and give the proof in them all. I am not aware that there is any particular piece of testimony that would make it more to our advantage to break it up or keep it whole in one proceeding. I am not aware that there is any critical case in which the witnesses should be

heard now rather than at another time. The first case, Mr. President, allow me to say, necessarily presented a great many questions of the manner of proceeding, and the kind of testimony to be admitted, which involved the Senate in discussions and the counsel somewhat in discussions, and it took a great deal of time; and, after getting through with one, the second has been taken up, and has been much more expeditiously disposed of; and we think, after this, we can put in each case in a great deal less time. We desire to be entirely under the direction of the court, and have no suggestions to offer on this point, one way or the other. We are perfectly at your service as to the time and manner of performing our duty here, it being a duty we have to do to get through with this business. The Senate may arrange to have it done as they see fit; to hear as much or as little, or in such manner as they shall deem expedient; and I should be very sorry at all to be a party to advising the Senate upon this subject, as it is perfectly indifferent to us in the performance of our duty; and I, therefore, beg not to give any advice or views in this matter, one way or the other. We regard the other cases as cases we shall make out very fully by the testimony, and we desire to present it in as concise a form as can be done with the greatest possible desire to be extricated from sitting in a tribunal, in this hot weather. We never go to court in the month of August unless we are compelled to do so.

The PRESIDENT — Does the counsel for the respondent desire to address the Senate upon the question now before the Senate?

Mr. MCGUIRE — I would ask the counsel for the State whether he regards the evidence as closed in the Third Avenue Bank on their side?

Mr. TRACY — Mr. President, I received one paper this morning that I submit to the learned counsel, namely, a certified copy of a document from Albany, that we could not get before, it being the appraisal in that case. That is to go in, and I know of nothing further, unless it should be necessary to call some witnesses in rebuttal. I have subpoenaed one witness to be here with that view, supposing that, perhaps, I might put him in advance of the rest, as he is not perfectly well; and he begs time, and I have written him that he must come. He is a gentleman in New York, who will come, after he gets my letter, I am sure.

Mr. MCGUIRE — The testimony is not closed in the Trades' bank on your side.

Mr. TRACY — There are some papers in the Trades' bank that are not here.

Mr. CHAPMAN — I do not see that they have rested in either case.

Mr. TRACY — We have announced that we have rested in either

case, but in each instance mentioned the fact that other evidence was to come which, upon its arrival, we desired to put in evidence, without prejudice to the other side.

Mr. CHAPMAN — Mr. President, we do not know whether that may be prejudicial to the defense. We have been put upon our defense once in each of these cases, and my friend upon the other side has had the benefit of that defense in the prosecution before the Senate; and every lawyer around this circle knows, at least, the very important advantage that that gives to him in the second prosecution. If we are to go on, and to speak with care — because my associate and myself have had no opportunity to consult in regard to this question — I think my associate will agree with me upon this proposition, and I think every Senator around this circle would perceive that we were right in taking this position; if we are again to be put upon our defense in these two cases, and then my friends on the opposition are to take up another case, and we are again to be put upon our defense there, and so on down through the eleven cases, it seems to me that every member of the bar around this circle would instantly see that that would not be quite right. Why? Putting our witnesses on the stand at the end of one case, our friends go into the line of cross-examination with the utmost latitude that has been accorded to them; and they examine into all general matters, general management, re-examine, compare with the testimony printed in the book, and then when we come to the next case we are put upon our defense; and the witnesses go upon the stand and they are again examined and re-examined. Now, it would be a little surprising if, in hunting down through all these various examinations, they would not be able to find something of that nature for matter of contradiction's sake, that they would not be able to find something of that nature. It places us under those circumstances, and if that line of procedure is to be followed, we are certainly in a very embarrassing position; and still, as I said before, my associate and myself have not consulted, and have not had the opportunity of consulting in regard to the full effect of the motion of the Senator from the Twenty-fifth. It covers a great deal of ground. There are a good many contingencies that I can see possible in connection with it. I doubt very much whether, at this instant, we would be willing to take our position upon it.

Senator BRADLEY — Mr. President, I desire to inquire whether the counsel for the accused are prepared to go on if this rule should be adopted — prepared now?

Mr. CHAPMAN — Mr. President, our [friends on the other side have not rested in either of these cases.

The PRESIDENT — Mr. Tracy, are you ready to finish in the Third Avenue Savings Bank this morning?

Mr. TRACY — Yes, sir. Upon putting in this paper without waiting for the other man.

The PRESIDENT — Then is the counsel for the respondent ready to go on?

Mr. CHAPMAN — May I suggest, to ask us this morning for an immediate answer would hardly be leaving to us the fair rights which would ordinarily belong to a person situated as Mr. Ellis is. We certainly have no desire, Mr. President, to delay this Senate. The superintendent is here, paying his own expenses, and the expenses include charges of counsel. Now, he wants this thing ended. Of course, there is no doubt about that proposition; and there would be no reason in his delay, and we certainly should go on just as rapidly as we could. There can be no doubt about that in the mind of any Senator; but whether we shall be ready to go on with it in an hour on this new proposition or in two hours, or immediately, the Senate, I think, should grant us the privilege to consider the proposition until after dinner.

Senator WOODIN — Mr. President, I would like to ask the counsel for the respondent whether his witnesses are here in reference to the Third Avenue Savings Bank.

Mr. CHAPMAN — Mr. President, that involves precisely the question. We had no idea this thing was coming up. We may want to call other witnesses, and we may want to rest where it is. It is a matter we cannot tell. We want to consult. I have not gone into our defense in relation to that. We cannot say as to how that is exactly, until after dinner.

Senator WOODIN — Mr. President, these charges are separate and distinct. They have no relation whatever, one with the other. The same set of witnesses are not required at all, and as an original proposition I should have urged that the orderly way to proceed with the investigation of these charges was to take one bank up and hear the evidence on one side, and when closed up, to hear the evidence upon the other, and then to take up another case and to go through in the same way; and the Senate would be better able to form an accurate judgment as to each case, tried in that way, than it will in trying any other way. We commence with the Third Avenue Savings Bank and hear the testimony on the part of the prosecution, and four weeks from that time, we begin to hear the answers. By that time, in this warm weather, a good many Senators will have forgotten what was sworn to upon the other side. Whose interest that would be I don't know, nor is it material to inquire; but if the testimony in regard to the Third Avenue Savings Bank is all in and the witnesses

for the defense are present, it seems to me that it is for the interest of the State, the interest of the respondent, and the interest of the Senators that we should hear the answer, and then we will regard that case as closed, and then take up the other, and hear the evidence in regard to that, and the evidence in regard to that closed, and the Senate shall be competent to say at what point the investigation shall cease. That is the object of my motion.

Senator BRADLEY—Mr. President, this is all very well, and I should be inclined to adopt it, if it could be done in justice to the accused.

Senator WOODIN—I will not insist upon it, if it cannot be.

Senator BRADLEY—The reason of my inquiry was not to ascertain whether the defense is prepared at this time to proceed. Here are eleven banks involved in this inquiry. The defense, of course, cannot know at what particular moments they will be required to enter upon the defense of each one of these cases. If they are able to see that, they can be prepared to take these cases up *seriatim* and be prepared to enter upon the defense of any one of the cases as they shall be disposed; on the part of the State, I should be in favor of this method. But, in view of what possibly might be an inconvenience and perhaps an impossibility, I am opposed to it.

Senator WOODIN—If that be the case, I can withdraw it.

Senator COLE—Mr. President, I desire to say that the suggestion made by the Senator from the Twenty-fifth, appears to me to be a little extraordinary, and for this reason: the counsel on the part of the people, under the suggestions that have been made, left us to infer that they did not want to be put on their election of these cases in substance, but that they came here under instructions from the Governor to meet each and every one of these charges; the defense, as a matter of course, cannot understand what they have got to meet until after it has been disclosed on the part of the State. It seems to me that it is embarrassing to the accused to be placed in that position. If the counsel on the part of the State will indicate their willingness to rest this question upon two or more cases so that the defense may be prepared to meet those one or more cases, then we are all right, but it is out of the ordinary way of doing this thing in court. There is no agreement between counsel on either side, and it seems to me that, as the case now stands, without some intimation on the part of the counsel for the people, that they are willing to adopt some one, two or more of these cases and to let the defense go on with them, it is better for the Senate to leave them to prosecute their own course, and the defense to meet it as they may, at the proper time.

Senator WOODIN — It is not a proposition to ask them to elect upon any case.

Senator LEWIS — Mr. President, it has been suggested by several Senators around the circle, that at the same time there is to be an adjournment of the Senate until Monday afternoon at four o'clock. I am not anxious on the question of adjournment at all. I merely rise for the purpose of asking the counsel for the respondent, in case the Senate should now immediately adjourn until four o'clock Monday afternoon, whether it would be agreeable to them to go on with the defence in the two cases.

Senator GERARD — I recognize the propriety of the motion of the Senator from the Twenty-fifth, in respect to the question of time consumed, and of money expended, and I am willing, in that point of view, to hold nightly sessions and to give my undivided time and attention to this matter. It has been very much delayed, perhaps unnecessarily, but the grave question in my mind is, whether sitting here in the capacity of jurors, or as a tribunal, we should make a positive direction to the counsel for the State as to the manner of his procedure in this matter. Now, sir, as I understand the matter, it is before us as an entirety. We are not trying a separate set of charges, but we are trying a general question of culpable negligence in all these matters, only bearing more or less upon the other. There may be testimony of witnesses in one case that may bear upon a point in another case. The question of negligence in one case may be decided in the minds of Senators by the testimony in another case. There may be certain general inferences drawn from all the facts, which may not be arrived at in a particular case, and we all know that there is a rule of law governing in questions of analogous character. It may be a proper subject of investigation as regards all these prosecutions, if there has been a generally negligent administration. What may be a question of doubt may be resolved by the general negligence shown by the investigation in regard to all the banks. Therefore, it seems to me, although I deprecate this long trial, this expenditure of time and money, and am willing to give all my time and attention to this matter, that there is a propriety of leaving to the prosecution the conduct of this matter. There is a propriety in not taking action on this motion, as requested by the Senator from the Twenty-fifth, because all the cases should be before us in all their bearing, and we are not called upon to give a special verdict in each special case *seriatim*.

Senator PRINCE — Mr. President, one word only, on that — on a subject of time; this session of the Senate is protecting itself very considerably; we all, I suppose, concur in desiring to do whatever can be done to shorten the remainder of it; it seems to me the suggestion of the Senator from the Twenty-fifth will certainly double the time

that will be required in carrying on this case; if testimony is to be duplicated under each one of these charges, the amount of time occupied will necessarily be very large; I can see, without knowing, of course, any more than we all know from the particular testimony as to the general line of defense, that it will be quite similar in all of the cases; I had supposed the witnesses would be put on the stand once in the defense and cover all the points the defense desires to cover by them; if they have to be duplicated eleven times, it requires a great deal more time; I had hoped we would go on with the case in the manner in which it is commenced, and carried it on as speedily as possible.

Senator SCHOONMAKER — Mr. President, I would like to hear the resolution read.

The PRESIDENT — The motion will be read for the information of the Senate.

A clerk read the motion which was as follows:

“Mr. Woodin moved that the respondent do now proceed to make his defense to the charges preferred in respect of the two banks, upon the truth of which testimony has been adduced by the prosecution, and that the Senate, at the conclusion of such defense, will determine whether it proceeds to the investigation of the charges preferred in respect of other institutions.”

Senator WOODIN — Mr. President, now, if the Senator will allow me, I will say, if the counsel for the defense or respondent say they are not prepared to go on with the evidence in the Third Avenue Savings Bank, which is regarded now as practically closed on the part of the prosecution, I withdraw that resolution. I have not heard them yet say so.

Senator KENNADAY — Mr. President, before the counsel for the respondent is called upon to answer to the suggestions of the Senator from the Twenty-fifth, I beg leave to call attention to the fact that that resolution embraces both of the banks, which have thus far been investigated, and it seems to me it would be unfair to require the counsel for the defense to answer in reference to one of them until the counsel for the State announces they have rested in both cases.

Senator WOODIN — Then I move to strike out the Trades' Bank.

Mr. CHAPMAN — That will leave the Trades' still open and put upon the defense, by virtue of the resolution, as soon as we are through with the Third Avenue Savings Bank.

Senator WOODIN — Not at all; they have not got through with the Trades' yet.

Mr. CHAPMAN — Mr. President, precisely; after we go into our defense on the Third Avenue case, then our friends on the other side examine with a view of what they are going to prove in the Trades

Savings Bank case before they rest that; now, it certainly would meet the mind of any Senator that that may give them a percentage of advantage, and I do not think they need any percentage of advantage.

Senator WOODIN — Mr. President, I do not know what the counsel means by the last remark.

Mr. CHAPMAN — Mr. President, I mean nothing except this: this single point I had in my mind, and I trust the Senator will give me credit for it when I say it; what I referred to is this, we have been placed so many times on trial, we have been witnesses in so many of these cases — indeed, all of them; we have shown our hand very largely, and, having been thus exposed, it does not seem to me that we ought to be so again; that is the single point I had in my mind.

Senator WOODIN — Mr. President, I am satisfied the counsel for the respondent did not desire the case to be tried in the way I indicated in my resolution, and therefore I desire to withdraw it.

Mr. CHAPMAN — Mr. President, neither of us wish to be placed in a position of assuming that we would not, under any circumstances, accept that proposition; we only ask time to consult in regard to it; it seems to me that we ought to have that privilege, and if when we come in this afternoon, at the afternoon session, we would then announce a decision.

Senator WOODIN — I withdraw the resolution, and I give notice that on Monday afternoon — if there is a session on Monday afternoon — I shall offer that resolution the very moment the testimony is closed in regard to the Trades' Savings Bank.

Mr. Tracy read the following in evidence:

NEW YORK, *August 30, 1876.*

H. L. LAMB, Esq.:

DEAR SIR.—I inclose note from Mr. Cothren asking an adjournment, as he wishes to see Mr. Hawkins, who is expected to return in a day or two, as he is more conversant with the affairs of the bank, and is one of the trustees. Leslie has been down to-day; throws the whole blame on Freese; says *he* had nothing to do with the sale of the Beach street house to Mulvany, and, in fact, admitted that he had let Freese have his own way in the management. Sees his error now; is afraid the failure will ruin his business, and hopes he will be able to raise means to meet all liabilities in case a *receiver* is *not appointed*. The trustees are to meet this evening and see what can be done. I tell him the bank never could be revived; all he can do would only go to redeem his character as president.

Freese has promised Cothren that he will put in money enough to cover the loan of \$5,000 on his brother's B. and M., and assume it himself. Perhaps, by giving them the adjournment asked for, something may be gained for the depositors out of all these "good prom-

ises;" but there has been too many false entries made in the books, and too many lies told by the secretary to make it safe for the institution to continue business.

Yours truly,

GEO. W. REID.

I have discovered that \$9,552.53 was deposited in the Grocers' Bank, July twentieth, which Lesley says was the proceeds of the \$10,000 mortgages to Willetts.

There is no entry of the kind on the S. Bank's books, but this and other items are entered in *gross* as a deposit, on July thirty-one, of a little more than \$17,000. R.

At a Special Term of the Supreme Court of the State of New York, held at the chambers of Mr. Justice Landon, in the city of Schenectady, on the 25th day of October, 1876.

Present — HON. JUDSON S. LANDON, *Justice*.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE TRADES' SAVINGS BANK.

Upon the order to show cause herein, dated September 18, 1876, granted by Hon. Judson S. Landon, a justice of this court, and, upon proof of service of the same, and after hearing E. W. Paige, Deputy Attorney-General, for the plaintiffs, and Dexter A. Hawkins for the defendant, it is

Ordered, that the defendant, its officers and agents, be and they are hereby restrained and enjoined from exercising any of the corporate rights, privileges or franchises of the defendant, and from collecting or receiving any debts or demands, or from paying out or in any manner transferring or delivering to any person any of the moneys, property or effects of the said defendant; and it is further

Ordered, that Samuel B. White, of the city of New York, be and he is hereby appointed receiver of all the stock, property, things in action, and effects, real and personal, of said corporation, the Trades' Savings Bank, and of all property held by it, with the usual powers and duties in such cases enjoined and exercised by receivers, according to the practice of this court; it is also

Ordered, that, before entering upon the duties of his office, such receiver shall make, execute and deliver, and cause to be executed and delivered, by sufficient surety or sureties, to be filed with the clerk of Albany county, a bond to the people of the State of New York in the penal sum of \$25,000, conditioned for the faithful execution by said receiver of his trust in him placed, and the due performance of all duties appertaining thereto, said bond to be ap-

proved as to its sufficiency, form and manner of execution by a justice of the Supreme Court, after due notice of the time and place of the making of the application for such approval has been first given to the Attorney-General of the State of New York. Upon the filing of which bond thus approved, the receiver is authorized and directed to take possession of and sequester the stock, property, things in action and effects, real and personal, of said corporation, the defendant herein, and to take and hold all property held by or in the possession of said defendant corporation; it is further

Ordered, that all money, personal property, choses in action and effects of, or held by said corporation, and all securities and obligations belonging to said corporation coming into the hands of said receiver, except articles of furniture and corporate books, and except the sum of \$1,500 to be retained by said receiver for the payment of necessary and incidental disbursements, be deposited with the United States Trust Company of the city of New York, to be held by said last-mentioned corporation subject to the further order of this court, and to the credit of the receiver in this action; said money and securities so deposited as aforesaid with said United States Trust Company not to be delivered over by it, except subject to, and in pursuance of the order of this court; it is further

Ordered, that the said receiver do also forthwith proceed and recover by process of law or otherwise, pursuant to statute in such cases provided, any sum which may be due to such corporation, if the person so indebted be not wholly insolvent; it is further

Ordered, that before any distribution of any of said funds or assets shall be made, and within six months from date of this order, the said receiver report to the court, after giving notice of his intention so to do to the Attorney-General, his proceedings under this order, with an exhibit of the accounts and demands for and against said corporation and all its open and subsisting contracts, and a statement of the amount of the money and assets in the hands of said receiver, together with a statement of his expenses and commissions, to the end that such order may be made in regard thereto, as the nature of the case may require; and it is further

Ordered, that until the coming in of said report and the hearing thereon, the question as to the distribution of said assets and moneys, and of the rights and interests of the respective parties claiming the same or any portion thereof, be reserved for further directions; it is further

Ordered, that such further application may be made to the court, on the footing of this decree, as the receiver may be advised is proper and necessary for the instruction in the management and conduct of his trust; it is further

Ordered, that except as herein ordered and directed, the said receiver shall not dispose of, or in any manner interfere with, any of the assets of said bank directed to be deposited with the United States Trust Company.

It is hereby further ordered that said receiver shall immediately (upon the approval of the bond herein required to be given), in the presence of the Superintendent of the Banking Department of the State of New York, take the assets so directed to be deposited from said bank and deposit them with the said United States Trust Company, and take from said trust company a receipt, stating that such assets are received under and in pursuance of the provisions of this decree, and under the restriction as to their transfer or disposition in this decree mentioned; it is further

Ordered, that no application shall be made to any court, nor shall any action of the court be asked or suffered by the receiver relating to or in any way connected with the duties of said receiver or the funds or assets of the defendant above mentioned, or their transfer, sale or delivery, unless a five days' notice of such application be first given to the Attorney-General of the State of New York.

Filed and entered in Albany county, October 27, 1876.

(Copy)

W. E. HASWELL,

Clerk.

STATE OF NEW YORK, }
CITY AND COUNTY OF ALBANY, }
Clerk's Office.

I, William E. Haswell, clerk of the said city and county, and also clerk of the Supreme and County Courts, being courts of record held therein, do hereby certify that I have compared the annexed copy order appointing receiver, with the original thereof, filed in this office on the 27th day of October, 1876, and that the same is a correct transcript therefrom, and of the whole of said original. In testimony whereof I have hereunto set my hand and affixed my official seal this 16th day of June, 1877.

W. E. HASWELL,

Clerk.

NEW YORK, *September 2, 1876,*

MY DEAR LAMB.—The date of the record is always the *time the papers are left*. Mr. Hawkins returned yesterday, but is away again to-day. We are to meet Freese on Monday with the books, minutes of trustees' meetings, etc., and I think from present indications the result will be all opposition to the appointment of a receiver will be withdrawn, as Leslie and his friends will not be able to furnish any funds to secure the depositors. The fourth section of the charter of the Trades', *still*

in force, makes it necessary for a majority of *all* the trustees to vote in favor of any transfer of securities, or to make any loan, etc. This has *not* been complied with, I think, in any case. Freese has been allowed to use the funds as he saw fit without any special authority. I don't think he has ever used the funds for his own benefit, but he has made desperate efforts to keep the concern going, in hopes of securing a position for life. Leslie has been used, and will in the end have to pay most of the deficiency. He certainly has been very weak in allowing himself to be so involved, after all my warnings to him last winter, when he admitted he knew nothing about the sale of the Beach street house.

"I do not go to Poughkeepsie on Monday, as Hawkins was so anxious I should meet Freese at his office and have a full explanation. Will let you know the result.

"Yours truly,

"GEO. W. REID."

The PRESIDENT—That is in your power, Mr. Tracy, to do so. Will you put in the balance of the testimony in the Third Avenue Savings Bank, Mr. Tracy?

Mr. TRACY—Mr. President, I will read now in evidence the following:

SCHEDULE A.

BONDS AND MORTGAGES.

Enumerate, first, all mortgages on unincumbered, productive and improved real estate, and then all mortgages on unimproved and unproductive real estate. State separately, and in detail, all bonds and mortgages that are in arrears of interest more than six months.

No.	County where mortg'd premises are located.	In what city, village or town.	Principal unpaid.	Est'd value of mortg'd premises.	Rate of interest.	Date of last payment of interest.
1...	New York	New York	\$9,000	\$25,000	7	Nov. 1, 1875
2...	New York	New York	13,000	30,000	7	Nov. 1, 1875
3...	New York	New York	21,375	Sale of real estate, part m'gage taken.	7	Dec. 15, 1875
4...	Kings	Brooklyn	3,000		7	Aug. 19, 1875
5...	Kings	Brooklyn	3,000	6,000	7	Aug. 19, 1875
6...	Kings	Brooklyn	6,000	12,000	7	Nov. 1, 1875

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, viz.:

1. United States stocks or interest-bearing notes or obligations.

2. New York State stocks.
3. Stocks of other States.
4. Stocks or bonds of cities in this State.
5. Stocks or bonds of counties.
6. Stocks or bonds of towns.
7. Stocks or bonds of villages.
8. Any other stocks or bonds.

State separately and in detail all stocks that are in arrears of interest six months or more.

Name of Stock.	Rate of interest.	Actual cost.	Par value.	Estimated market value.	Date of last payment of interest.
Buffalo City bond	7	\$14,500	\$14,500	\$15,515	Dec. 31, 1875
Long Island City bonds	7	7,760	8,000	8,000	Sept. 1, 1875
Long Island City bonds	7	9,000	9,000	9,000	Aug. 1, 1875

SCHEDULE C.

STOCKS UPON WHICH MONEY IS LOANED, AS AUTHORIZED BY SECTION 27, CHAPTER 371, OF THE LAWS OF 1875.

Name of Stock.	Par value.	Amount loaned thereon.	At what rate of interest.
United State bonds 5-20	\$100 00	\$75 00	Seven.
United State bonds 5-20.....	100 00	50 00	Seven.

SCHEDULE D.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	At what rate of interest.
Grocers' Bank.....	New York city....	\$10,077 70	Four.

SCHEDULE E—No. 1.

LOANS OTHER THAN THOSE AUTHORIZED BY SECTION 27, CHAPTER 371, OF THE LAWS OF 1875.

Add the amount of assets enumerated on this blank to the amount on schedule "E." blank No. 2, the sum of which carry to head No. "8" of Resources.

Description of Security or Collateral.	Market value of collateral.	Amount of loan.	At what rate of interest.
Long Island City bonds and bond and mortgage .. }	\$6,000 { 10,000 }	\$11,000	Seven.

SCHEDULE E—No. 2.

ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED.

If costs of stocks or bonds exceeds their market value, such excess should be entered under the head "Other Liabilities," in the report.

Excess of market value of stock investments over cost..	\$1,255 00
Accrued interest on bonds and mortgages	546 45
Accrued interest on stock investments, such interest not being in arrears six months, nor included in the market value of stocks, as shown by Schedule B.....	521 10
Accrued interest on loans and deposits.....	
Interest due on bonds and mortgages, not in arrears six months	
Interest due on stock investments, not in arrears six months	
Interest due on loans and deposits, not in arrears six months	
Furniture and fixtures..	
United States revenue and postage stamps.....	381 32
Interest accrued on bond and mortgage ("under foreclosure")	466 66
Bond and mortgage (\$10,000) and Long Island City bonds (\$6,000), Schedule E (No. 1).	11,000 00
	<u>\$14,167 53</u>

SCHEDULE F.

PAYMENTS ON ACCOUNT OF EXPENSES DURING 1875.

Salaries,* viz. :

President.....		
Treasurer.....		
Secretary.....		
Assistant secretary, per annum.....	\$780 00	
Teller, per annum.....	216 00	
		<hr/>
		\$996 00
Rent, \$1,314 ; repairs, \$		1,314 00
Furniture and fixtures.....		847 53
Printing, advertising, stationery and blank-books.....		2,163 33
Fuel and lights		278 07
Taxes (State, county, town, village and city)		
Taxes (United States) ..		237 24
Other expenses, viz. : Insurance, attorney's fees, etc.....		464 77

SCHEDULE G.

STATISTICAL INFORMATION.

1. Number of open accounts January 1, 1876.....	\$809 00	
2. Number of accounts opened during the year 1875.....	677	
3. Number of accounts reopened during the year 1875	42	
		<hr/>
		719
4. Number of accounts closed during the year 1875...		520
5. Amount deposited, including interest credited, dur- ing the year 1875	\$514,481 93	
6. Amount of deposits withdrawn during the same period	494,368 76	
7. Amount of interest credited to depositors for the year 1875	6,514 88	
8. Amount of each semi-annual credit of interest for the year 1875, and when credited :		
July 1, 1875.....	\$3,521 49	
January 1, 1876.....	2,716 41	
Credited at other periods during the year	276 98	
Paid but not credited during the year	265 42	
		<hr/>
		6,780 30

* The title of each officer and employee, and the amount paid such officer or employee, should be stated under the head of "Salaries."

9. Amount of extra dividends, if any, and when credited.....	.....
10. Amount of the largest single deposit, exclusive of interest.....	\$5,000 00
11. Average amount of each deposit, January 1, 1876,..	186 50
12. Market value of real estate, viz.: Banking-house and lot, \$; other real estate, \$	
13. Rate per cent of dividends or interest to depositors during the past year, 4 and 6.	

Report of the Trades' Savings Bank, an institution for savings, of its condition on the morning of the 1st day of January, 1876, made to the Superintendent of the Banking Department, as required by chapter 371 of the Laws of 1875.

RESOURCES.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed.....	\$55,375 00
2. Stock investments, as shown by Schedule B, hereto annexed, cost.....	31,260 00
3. Amount loaned on stocks, as authorized by section 27, chap. 371, Laws of 1875, as shown by Schedule C, hereto annexed	125 00
4. Banking-house and lot, at cost	
5. Other real estate, at cost.....	
6. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed.....	10,077 70
7. Cash on hand.....	10,917 50
8. Amount of all other assets the particular items of which are set forth in Schedule E, hereto annexed,	14,107 53
	<hr/>
	\$121,862 73

LIABILITIES.

1. Amount due depositors.....	\$120,323 15
Principal.....	\$117,606 74
Interest credited for the six months ending January 1, 1876	2,716 41
2. Other liabilities, viz.: certified check.....	70 00
3. Excess of assets over liabilities.....	1,469 58
	<hr/>
	\$121,862 73

CASH TRANSACTIONS DURING THE YEAR 1875.

Receipts.

Cash on hand, and in bank or trust companies, January 1, 1875, before transactions of the day	\$17,796 43
From depositors (should include no credits of interest),	507,967 05
From interest on loans, deposits, and investments.....	8,125 57
From all other profits, viz.: premiums, \$; rents, \$715.52.....	715 82
From mortgages, paid, called in, or foreclosed.....	13,000 00
From redemption of stocks.....	11,000 00
From loans repaid.....	118,230 00
From other sources, viz.: profit and loss, \$4,090; certificates, \$29,924.70; fixture account, \$7,996.49; real estate, \$16,483.29; exchange. \$118.99; Mamaroneck town bonds, \$7,940.....	66,553 47
	<u><u>\$743,388 34</u></u>

Payments.

To depositors, including interest paid to them.....	\$494,368 76
For Loans on bonds and mortgages.....	43,375 00
For loans on stocks and other securities.....	99,335 00
For stocks and bonds purchased, par value \$28,000....	27,760 00
For real estate purchased.....	16,483 29
For interest, not included in payments to depositors..	281 84
For expenses, as shown by Schedule F, hereto annexed,	6,300 94
Other payments, viz.: profit and loss, \$308.55; certificates, \$34,179.76.....	34,488 31
Cash on hand and in bank, December 31, 1875, after the transactions of the day	20, 995 20
	<u><u>\$743,388 34</u></u>

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Alexander M. Lesley, president, and I. M. Freese, secretary of the Trades' Savings Bank, an institution for savings, organized under the laws of the State of New York, located and doing business at No. 224 West Twenty-third street, in the city of New York, being duly sworn, each for himself, saith that the foregoing report of resources and liabilities, and cash transactions, and the schedules accompanying this report, designated, respectively, A, B, C, D, E, F, and G,

are, in all respects, a true statement of the condition of said institution before the transactions of any business, on the morning of the first day of January, one thousand eight hundred and seventy-six, in respect to each and every of the items and particulars therein specified.

ALEX. M. LESLEY, *President.*

I. M. FREESE, *Secretary.*

Severally subscribed and sworn by }
both deponents, the 22d day of }
January, 1876, before me. }

JACOB APPELL,

Notary Public for the City and Co. of N. Y.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Alexander M. Lesley, J. H. Livingston and Theodore W. Freese, being duly sworn, each for himself, saith that he is one of a committee of three regularly appointed by the trustees of the Trades' Savings Bank, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings, (as provided and directed by section 45 of chapter 371 of the Laws of 1875) and that the within statement of assets is a true statement of the value of such assets in possession of and owned by said institution on the morning of January 1, 1876, as appeared by the examination made by such committee, in pursuance of section 45 of the law above cited.

ALEX. M. LESLEY.

J. H. LIVINGSTON.

THEO. W. FREESE.

Subscribed and sworn by each }
deponent, before me, this }
22d day of January, 1876. }

JACOB APPELL,

Notary Public for the City and County of N. Y.

Know all men by these presents, that I, Spencer K. Green, of the the city, county and State of New York, in consideration that the Third Avenue Savings Bank, at my request, does continue its ordinary business after the 19th day of January (1874), one thousand eight hundred and seventy-four, do hereby bind myself, my heirs, executors and administrators, to pay unto the said The Third Avenue Savings Bank, its successors or assigns, on the first day of January, one thousand eight hundred and eighty-three (1883), or six months after demand therefor, the sum of fifteen thousand dollars (\$15,000),

with interest, from the first day of January, one thousand eight hundred and seventy-three (1873), at seven per centum per annum, payable on the first days of January and July. And I expressly agree, that the payments made on account of either the principal or interest of this bond, shall not be claims against the said savings bank, nor constitute a debt of the said savings bank, except, however, that all payments so made shall be returned with interest by the said savings bank, out of any actual surplus acquired by it exceeding the sum of one hundred and fifteen thousand dollars. And the said Third Avenue Savings Bank does receive this bond upon the terms and conditions herein expressed and further agrees, that whenever an actual surplus exceeding the amount of fifty-seven thousand five hundred dollars (\$57,500), shall have been acquired by it, then the rate of interest upon the sum secured by this bond shall be reduced to such extent as shall not impair such surplus, and that interest shall be allowed and paid by it upon all sums of money actually paid on account of the principal sum secured hereby. And the said savings bank does further agree, that whenever the actual surplus acquired by it shall amount to the sum of ten thousand dollars, exclusive of this bond, and of a certain other bond dated 28th December, 1872, made by William A. Darling and others then this bond shall be discharged and the obligor thereof be forever released therefrom.

In witness whereof I have hereunto set my hand and seal, and the said savings bank has hereunto affixed its corporate seal and caused these presents to be attested by its officers this 31st day of December, in the year 1873.

In presence of HENRY C. WEEKS.

[Bank seal.]

SPENCER K. GREEN. [L. s.]

T. W. DECKER, *President*.

DAVID MORGAN, *Secretary*.

The words "and upon condition that the said bank continues its said business until the 1st day of January, one thousand eight hundred and seventy-seven (1877), in lines eight, nine, ten, eleven and twelve on first page first stricken out, and the words 'four' (1874) in line twenty-two on same page also stricken out, and the words 'three' (1873) and 'per annum' interlined before execution."

W. B. HARISON.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

On this 17th day of January, 1874, personally appeared before me Spencer K. Green, to me known to be the individual described in and

who executed the foregoing bond, and acknowledged that he executed the same for the purposes therein contained.

W. B. HARISON,
Notary Public.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

On the 17th day of January, 1874, before me came David Morgan, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides in the city of New York; that he is the secretary of the Third Avenue Savings Bank, to him known to be the same corporation described in and which executed the foregoing instrument; that the seal affixed to said instrument is the corporate seal of said corporation and was affixed thereto by its authority, and that he, David Morgan, its secretary, and T. W. Decker, its president, subscribed their names thereto by like authority.

W. B. HARISON,
Notary Public.

Know all men by these presents that we, William A. Darling, John H. Lyon, Daniel Bates, W. D. Bruns, William B. Harison, James Stephens, Andrew Stevens, James Owens, Richard Kelly, D. D. T. Marshall, David Morgan, George Hencken, Jr., Thompson W. Decker, William S. Opdyke and John Lacey, in consideration that the Third Avenue Savings Bank of the city of New York, upon the request of each of us hereby made, does continue its ordinary business after the 15th day of January, 1873, and in further consideration of the mutual covenants hereof do hereby agree with each other to bind ourselves respectively, and are hereby severally bound, each for himself, his respective heirs, executors and administrators, and not one for the other, to pay unto the said the Third Avenue Savings Bank of the city of New York, its successors or assigns, on the first day of January, in the year one thousand eight hundred and eighty-three (1883), or six months after a demand therefor, the following sums respectively, viz.: The said William A. Darling the sum of fifteen thousand dollars (\$15,000); the said John H. Lyon the sum of five thousand dollars (\$5,000); the said Daniel Bates the sum of ten thousand dollars (\$10,000); the said W. D. Bruns the sum of ten thousand dollars (\$10,000); the said William B. Harison the sum of ten thousand dollars (\$10,000); the said James Stephens the sum of ten thousand dollars (\$10,000); the said Andrew Stevens the sum of ten thousand dollars (\$10,000); the said James Owens the sum of five thousand dollars (\$5,000); the said Richard Kelly the sum of ten thousand dollars (\$10,000); the said D. D. T. Marshall the sum of twenty-five hundred dollars (\$2,500); the said David Morgan, George Hencken,

Jr., Thompson W. Decker, William S. Opdyke, each the sum of twenty-five hundred dollars (\$2,500), and the said John Lacey the sum of twenty-five hundred dollars (\$2,500), with interest in each case on the said amounts respectively from the 1st day of January, 1873, at the rate of seven per centum per annum, payable on the first days of January and July in each year, until the principal sums are paid or discharged.

And it is expressly agreed by and between the parties hereto, that the payments made on account of either the principal or interest of bond shall not be claims against the said savings bank, nor constitute a debt of the said savings bank, except, however, that all payments so made shall be returned with interest by the said savings bank, pro rata, out of any actual surplus acquired by it, exceeding the sum of \$100,000, such payments to be made by the said savings bank, pro rata, until the whole amounts paid hereunder shall be returned with interest.

And the said Third Avenue Savings Bank does receive this bond upon the terms herein expressed, and further agrees that whenever an actual surplus exceeding the amount of \$50,000 shall have been acquired by it, then the rate of interest upon the several sums secured by this bond shall be reduced to such extent as shall not impair such surplus, and that proportionate interest shall be allowed and paid by it upon all sums of money actually paid on account of the principal sums secured thereby.

And the said savings bank does further agree that whenever the actual surplus acquired by it shall amount to the sum of \$10,000, exclusive of this bond, then this bond shall be discharged and the several obligors thereof be forever released therefrom.

In witness whereof we have hereunto set our respective hands and seals, and the said savings bank has hereunto affixed its corporate seal and caused these presents to be attested by its officers this twenty-eighth day of December, in the year one thousand eight hundred and seventy-two.

WM. A. DARLING.	[L. S.]	RICHARD KELLY.	[L. S.]
JOHN H. LYON.	[L. S.]	D. D. T. MARSHALL.	[L. S.]
DANIEL BATES.	[L. S.]	DANIEL MORGAN.	[L. S.]
WM. D. BRUNS.	[L. S.]	GEO. HENCKEN, JR.	[L. S.]
W. B. HARISON.	[L. S.]	T. W. DECKER.	[L. S.]
JAS. STEPHENS.	[L. S.]	WM. S. OPDYKE.	[L. S.]
ANDREW STEVENS.	[L. S.]	JOHN LACEY.	[L. S.]
JAMES OWENS.	[L. S.]		

In the presence of [the word "severally" }
interlined on the eighteenth line of the }
first page before execution]

HENRY C. WEEKS.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss. :

On the 28th of December, 1872, personally appeared before me W. A. Darling, Daniel Bates, William D. Bruns, Wm. D. Harison, James Stephens, Andrew Stevens, James Owens, David Morgan, Geo. Hennen, Jr., T. W. Decker and W. S. Opdyke ; and also on the 30th day of December, 1872, personally appeared before me John H. Lyon, Richard Kelly, John Lacey and D. D. T. Marshall, known to me to be the individuals described in and who executed the foregoing instrument, and severally acknowledged that they executed the same for the purposes therein contained.

HENRY C. WEEKS,

Notary Public.

DANIEL BATES,

Vice-Pres't.

[Bank Seal]

DAVID MORGAN,

Secretary.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss. :

On the 30th day of December, 1872, before me came David Morgan, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides in the city of New York ; that he is the secretary of the Third Avenue Savings Bank, to him known to be the same corporation described in and which executed the foregoing instrument ; that the seal affixed to said instrument is the corporate seal of said corporation, and was affixed thereto by its authority, and that he is the secretary, and Daniel Bates, its president, subscribed their names thereto by like authority.

HENRY C. WEEKS,

Notary Public, (50) New York Co.

Know all men by these presents, that we, whose names are hereunto subscribed, in consideration that the Third Avenue Savings Bank of the city of New York, upon the request hereby made by each of us, does continue its ordinary business after January, 1, 1873, do hereby severally agree with each other to pay, and do hereby bind ourselves severally, each for himself, his respective heirs, executors and administrators, and not one for the other, to the said the Third Avenue Savings Bank, to pay to the said saving bank during the year one thousand eight hundred and seventy-three (1873), each of us the sum of six hundred (600) dollars, or so much thereof as may be necessary to enable the said savings bank to supplement any deficiency in its income to make its payments of interest and expenses during the

said year, the payments hereunder being made on the thirtieth days of June and December. And it is expressly agreed, that the amounts paid hereunder shall never constitute a lien or debt against the said savings bank except that they shall be a lien upon any actual surplus acquired by the said savings bank beyond the amount of fifty thousand dollars (\$50,000), and shall be repaid after that time, on order of the board.

In witness whereof we have hereunto set our respective hands and seal, this twenty-eighth day of January, one thousand eight hundred and seventy-two.

DAVID MORGAN.	[L. S.]	W. B. HARISON.	[L. S.]
JAMES STEPHENS.	[L. S.]	WM. S. OPDYKE.	[L. S.]
DANIEL BATES.	[L. S.]	S. D. MOULTON.	[L. S.]
WM. D. BRUNS.	[L. S.]	GEO. HENCKEN, JR.	[L. S.]
WM. A. DARLING.	[L. S.]	JOHN H. LYON.	[L. S.]
ANDREW STEVENS.	[L. S.]	JOHN LACEY.	[L. S.]
T. W. DECKER.	[L. S.]	SPENCER K. GREEN.	[L. S.]
JAMES OWENS.	[L. S.]		

In the presence of

HENRY C. WEEKL.

(A true copy.)

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of the The Third Avenue Savings Bank, plaintiff, against SPENCER K. GREEN, defendant.

Summons for a money demand on contract.

To the defendant :

You are hereby summoned and required to answer the complaint in this action of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber, at his office, No. 21 Nassau street, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and, if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of \$15,000, with interest from the 1st day of January, 1873, besides the costs of this action.

Dated New York, February 24, 1876.

FRED'K SMYTH,

Plaintiff's Attorney, 21 Nassau street, N. Y.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank
 plaintiff, *against* SPENCER K. GREEN, defendant.

CITY AND COUNTY OF NEW YORK, ss.:

Samuel H. Hurd, as receiver of The Third Avenue Savings Bank, the plaintiff in this action by Frederick Smyth, his attorney, complains of Spencer K. Green, defendant in this action, and alleges as follows:

First. That heretofore, to wit: On the 28th day of December, 1873, at the city and county of New York, aforesaid, the above-named defendant made their certain bond or writing obligatory, bearing date the day and year last aforesaid and sealed with their seals, whereby, in consideration that the said The Third Avenue Savings Bank, of the city of New York, upon the request of the said defendant thereby made, should continue its ordinary business after the 19th day of January, 1874, he, the said defendant, bound himself, his heirs, executors and administrators, to pay unto the said The Third Avenue Savings Bank, of the city of New York, its successors or assigns, on the 1st day of January, in the year 1883, or six months after a demand therefor, the sum of \$15,000, with interest from the 1st January, 1873, at the rate of seven per cent per annum, payable on the first days of January and July in each year, and until the said principal sums should be paid or discharged.

And the plaintiff further alleges that it was thereby further expressly agreed between the said defendant and the said The Third Avenue Savings Bank that the payments to be made on account of either the principal or interest in said bond or writing obligatory mentioned, should not be claims against the said bank nor constitute a debt thereof except that all payments so made should be returned with interest by the said bank out of any actual surplus acquired by it, exceeding the sum of \$115,000.

And the plaintiff further alleges that it was thereby further agreed upon the part of the said The Third Avenue Savings Bank that it (the said bank) received the said bond or writing obligatory upon the terms and conditions therein expressed, and it is further agreed upon the part of the said The Third Avenue Savings Bank that whenever an actual surplus exceeding the amount of \$57,500 should have been acquired by it, then that the rate of interest upon the sums so secured by said bond or writing obligatory should be reduced to such extent as should not impair such surplus, and that interest should be allowed and paid by it upon all sums actually paid on account of the principal sums secured by said bond or writing obligatory, and that whenever the actual surplus acquired by the said The Third Avenue

Savings Bank should amount to the sum of \$10,000, exclusive of the amount secured by the said bond, then the said bond should be discharged, and of a certain other bond dated the 28th day of December, 1872, made by Wm. A. Darling and others to said savings bank, and the obligor (the said defendant) be forever released therefrom.

Second. And the plaintiff further alleges that afterwards, and on or about the 4th day of October A. D. 1875, in a certain action then pending in this court, wherein The People of the State of New York were plaintiffs and the said The Third Avenue Savings Bank were defendants, it was among other things ordered, adjudged and decreed by this court that the said The Third Avenue Savings Bank, the defendant in said action, be and it was thereby dissolved, and from thenceforth it determine and cease to exist as a body corporate, which judgment is now in full force and effect.

Third. And the plaintiff further alleges that the said The Third Avenue Savings Bank did not at any time between the said 31st day of December, 1873, the day of the date of the said bond or writing obligatory, and the said 4th day of October, 1875, the day of the date of said judgment, acquire any actual surplus whatever in its ordinary business, and that it did not between the aforesaid last-mentioned dates, or at any time, have an actual surplus exceeding the sum of \$100,000.

Fourth. And the plaintiff further alleges that the said The Third Avenue Savings Bank did not at any time between the day of the date of the said bond or writing obligatory and the day of the date of said judgment, in the second paragraph of this complaint mentioned, acquire any actual surplus exceeding the amount of \$57,500; nor did it, the said The Third Avenue Savings Bank, at any time between the dates last aforesaid acquire an actual surplus of \$10,000, exclusive of the amount secured by said bond or writing obligatory, and of the amount secured by the said other bond or writing obligatory, bearing date the 28th day of December, A. D. 1872, made by William A. Darling and others, to the said The Third Avenue Savings Bank in said first-mentioned bond or writing obligatory, and hereinbefore mentioned.

Fifth. And the plaintiff further alleges that, by an order duly made and entered in the aforesaid and above-mentioned action, wherein the People of the State of New York were plaintiffs and the said The Third Avenue Savings Bank was defendant, on the 6th day of December, 1875, he, the said plaintiff, was appointed receiver of all of the stock, property, things in action and effects, real and personal, of the said The Third Avenue Savings Bank, upon his executing to the people of the State of New York a bond in the form and penalty prescribed by

said order, and to be approved by a justice of said court and filed with the clerk of the county of Albany.

And the plaintiff further alleges that he has in all respects fully complied with the requirements of said order, and that he has executed the bond in the form and penalty required by said order, and that the same has been duly approved and filed as by said order was also required, and that he, this plaintiff, has entered upon the duties and trusts conferred upon him by said order, and has ever since continued to perform said duties and trusts so conferred upon him as such receiver, and that the said bond or writing obligatory form a part of the assets and property of the said The Third Avenue Savings Bank which came to the hands of this plaintiff as such receiver.

Sixth. And the plaintiff further alleges that six months prior to the commencement of this action at the city of New York aforesaid, he the said plaintiff, duly demanded the said sum of \$15,000 mentioned in said bond or writing obligatory of and from the said defendant, Spencer K. Green, who then and there neglected and refused to pay the same or any part thereof, and he is now justly indebted to this plaintiff receiver as aforesaid, upon the aforesaid bond or writing obligatory in the said sum of \$15,000, with interest thereon from the 1st day of January, 1873.

Wherefore, the plaintiff demands judgment against the said defendant for \$15,000, with interest thereon from the said 1st day of January, A. D., 1873, and for the costs of this action.

FREDERICK SMYTH,

Attorney for Plaintiff, 21 Nassau street, N. Y.

CITY AND COUNTY OF NEW YORK, ss. :

Samuel H. Hurd, the plaintiff in this action, being duly sworn, says that the foregoing complaint is true of his own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters he believes it to be true.

SAMUEL H. HURD,

Receiver, etc.

Sworn to this 24th day {
of February, 1877. }

JAMES H. WYNNE,

Notary Public, City and County N. Y.

NEW YORK SUPREME COURT—CITY AND COUNTY OF NEW
YORK.

SAMUEL H. HURD, reeveiver, *against* SPENCER K. GREEN.

The answer of the defendant shows :

First. I. He admits that he executed, under his hand and seal, a certain bond or writing obligatory about the date of the paper mentioned in the complaint, but as to whether the said bond so executed by this defendant was of the tenor or to the effect set forth in the complaint this defendant has no information sufficient to form a belief, and he therefore craves that the plaintiff may produce the said bond on the trial of this action, to the end that its true effect may appear.

Second. And for a second and separate defense, the said defendant, further answering, shows :

1, That the corporation of which the plaintiff is receiver, to wit, the Third Avenue Savings Bank, to which the said bond was given, and with whom the covenants set forth in the complaint were made was a corporation created and existing under and by virtue of the provisions of an act of the Legislature, entitled "An act to incorporate the Bloomingdale Savings Bank," passed April 17, 1854, and certain acts amendatory thereof, and had no power except those conferred upon it by the said acts, and the power necessary to carry out the said expressed powers; that it had no power to enter into the covenant mentioned in the complaint, and had no power to accept or receive the bond mentioned in the complaint; and the said contract was not necessary for it to make in the carrying out of any of the powers vested in it, the said corporation; that the said contract was, as respects the said Third Avenue Savings Bank, *ultra vires* and void.

Third. And, for a third and separate defense, the defendant shows :

I. That the bond or writing obligatory mentioned in the complaint herein was made and executed by this defendant, without any consideration whatever.

Fourth. And the said defendant, for a fourth and separate defense and counter-claim, further shows :

I. That at the time mentioned in the complaint when the plaintiff was appointed receiver, the said the Third Avenue Savings Bank, of which corporation the said plaintiff was so appointed receiver, was justly indebted to the plaintiff in the sum of \$5,000 for work, labor and services done and performed as the president and chief executive, officer of said bank from the 1st January, 1871, to the 1st July, 1871, at the request and upon the election of the board of trustees of said

corporation, which said services were so rendered, with the express understanding and agreement that the said corporation should pay him thereof such sum as his said services should be reasonably worth.

II. That defendant served in said capacity from the 1st day of January, 1871, to the 1st day of July, 1871, and such services were reasonably worth the sum of \$5,000, which said sum is due and owing to defendant by said bank, with interest.

Wherefore the defendant demands that the plaintiff shall take nothing by his complaint in this action, but shall be adjudged to have no cause of action, and that the defendant herein have judgment for the sum of \$5,000, with interest thereon from the 1st day of July, 1871, together with the costs of this action.

SEWELL & PIERCE,
Attorneys for Defendant.

CITY AND COUNTY OF NEW YORK, ss. :

Spencer K. Green, being duly sworn, says, that he is the defendant herein; that the foregoing answer is true of his own knowledge, excepting as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

SPENCER K. GREEN.

Sworn to before me this 25th }
day of April, 1877. }

GEO. P. SHELDON,
Notary Public.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank
plaintiff, *against* WILLIAM B. HARISON, defendant.

Summons for a money demand on contract.

To the defendant :

You are hereby summoned and required to answer the complaint in this action of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber at his office, No. 21 Nassau street, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and, if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of \$10,000, with interest from the 1st day of January, 1873, besides the costs of this action.

Dated *July 24*, 1876.

M. A. DAYTON, JR.,
Plaintiff's Attorney, 21 Nassau street N. Y.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank,
 plaintiff, *against* WILLIAM B. HARISON, defendant.

CITY AND COUNTY OF NEW YORK, ss. :

Samuel H. Hurd, as receiver of The Third Avenue Savings Bank, the plaintiff in this action, by M. A. Dayton, Jr., his attorney, complains of William B. Harison, defendant in this action, and alleges as follows :

First. That heretofore, to wit, on the 28th day of December, 1872, at the city and county of New York aforesaid, the above-named defendant, together with William A. Darling, Daniel Bates, John H. Lyon, William D. Bruns, James Stephens, Andrew Stevens, James Owens, Richard Kelly, D. D. T. Marshall, David Morgan, George Hencken, Jr., Thompson W. Decker, William S. Opdyke and John Lacey, made their certain bond or writing obligatory, bearing date the day and year last aforesaid, and sealed with their seals whereby in consideration that the said The Third Avenue Savings Bank of the city of New York, upon the request of them and each of them thereby made, should continue its ordinary business after the 15th day of January, 1873, and in further consideration of the mutual covenants in said bond or writing obligatory contained, they and each of them bound themselves severally, each for himself, his heirs, executors and administrators, and not one for the other, to pay unto the said The Third Avenue Savings Bank of the city of New York, its successors or assigns, on the 1st day of January, in the year 1883, or six months after a demand therefor, the following sums of money respectively, that is to say : the said defendant, William B. Harison, the sum of \$10,000 ; the said William A. Darling, the sum of \$15,000 ; the said Daniel Bates, the sum of \$10,000 ; the said John H. Lyon, the sum of \$5,000 ; the said William D. Bruns, the sum of \$10,000 ; the said James Stephens, the sum of \$10,000 ; the said Andrew Stevens, the sum of \$10,000 ; the said James Owens, the sum of \$5,000 ; the said Richard Kelly, the sum of \$10,000 ; the said D. D. T. Marshall, David Morgan, George Hencken, Jr., Thompson W. Decker, William S. Opdyke and John Lacey, each the sum of \$2,500, with interest on each of said sums for which each of said persons became bound as aforesaid from first day of January, 1873, at the rate of seven per cent per annum, payable on the first days of January and July in each year, and until the said principal sums should be paid or discharged.

And the plaintiff further alleges that it was thereby further expressly agreed between the said defendant and the other above-

named persons, and the said The Third Avenue Savings Bank, that the payments to be made on account of either the principal or interest in said bond or writing obligatory mentioned should not be claims against the said bank, nor constitute a debt thereof, except that all payments so made should be returned with interest by the said bank pro rata out of any actual surplus acquired by it exceeding the sum of \$100,000, such payments to be made by the said bank pro rata until the whole amount paid thereunder (the said bond or writing obligatory meaning) shall be returned with interest.

And the plaintiff further alleges that it was thereby further agreed upon the part of the said The Third Avenue Savings Bank that it, the said bank, received the said bond or writing obligatory upon the terms therein expressed, and it further agreed upon the part of the said The Third Avenue Savings Bank that whenever an actual surplus exceeding the amount of \$50,000 should have been acquired by it, that the rate of interest upon the several sums so secured by said bond or writing obligatory should be reduced to such extent as should not impair such surplus, and that proportionate interest should be allowed and paid by it upon all sums actually paid on account of the principal sums secured by said bond or writing obligatory, and that whenever the actual surplus acquired by the said The Third Avenue Savings Bank should amount to the sum of \$10,000, exclusive of the aggregate amount secured by the said bond, then the said bond should be discharged and the several obligors be forever released therefrom.

Second. And the plaintiff further alleges that afterwards, and on or about the 4th day of October, A. D. 1875, in a certain action then pending in this court, wherein The People of the State of New York were plaintiffs, and the said The Third Avenue Savings Bank were defendants, it was amongst other things ordered, adjudged and decreed by this court that the said The Third Avenue Savings Bank, the defendant in said action, be, and it was thereby dissolved, and from thenceforth it determine and cease to exist as a body corporate, which judgment is now in full force and effect, and that after the execution and delivery of the said bond or writing obligatory as aforesaid the said The Third Avenue Savings Bank did, at the request of the said defendant and the said above-named other persons, and of each of them, continue its ordinary business from and after the said 15th day of January, A. D. 1873, to and including the said 4th day of October, A. D. 1875, when it was dissolved by the said judgment of this court, and ceased to exist as a body corporate as aforesaid.

Third. And the plaintiff further alleges that the said The Third Avenue Savings Bank did not at any time between the said 28th day of December, 1872, the day of the date of the said bond or writing obligatory, and the said 4th day of October, 1875, the day of the date

of said judgment, acquire any actual surplus whatever in its ordinary business, and that it did not between the aforesaid last-mentioned dates, or at any time, have an actual surplus exceeding the sum of \$100,000.

Fourth. And the plaintiff further alleges that the said The Third Avenue Savings Bank did not at any time between the day of the date of the said bond or writing obligatory and the day of the date of said judgment in the second paragraph of this complaint mentioned, acquire an actual surplus exceeding the amount of \$50,000, nor did it, the said The Third Avenue Savings Bank, at any time between the dates last aforesaid acquire an actual surplus of \$10,000 exclusive of the aggregate amount secured by said bond or writing obligatory.

Fifth. And the plaintiff further alleges that by an order duly made and entered in the aforesaid and above-mentioned action wherein The People of the State of New York were plaintiffs, and the said The Third Avenue Savings Bank was defendant, on the 6th day of December, 1875, he, the said plaintiff, was appointed receiver of all of the stock, property, things in action, and effects, real and personal, of the said The Third Avenue Savings Bank, upon his executing to the People of the State of New York a bond in the form and penalty prescribed by said order, and to be approved by a justice of said court and filed with the clerk of the county of Albany.

And the plaintiff further alleges that he has in all respects fully complied with the requirements of said order, and that he has executed the bond in the form and penalty required by said order, and that the same has been duly approved and filed, as by said order was also required, and that he, this plaintiff, has entered upon the duties and trusts conferred upon him by said order, and has ever since continued to perform said duties and trusts so conferred upon him as such receiver, and that the said bond or writing obligatory form a part of the assets and property of the said The Third Avenue Savings Bank which came to the hands of this plaintiff as such receiver.

Sixth. And the plaintiff further alleges that six months prior to the commencement of this action at the city of New York aforesaid, he, the said plaintiff, duly demanded the said sum of \$10,000 mentioned in said bond or writing obligatory of and from the said defendant, William B. Harison, who then and there neglected and refused to pay the same, or any part thereof, and he is now justly indebted to this plaintiff, receiver as aforesaid, upon the aforesaid bond or writing obligatory in the said sum of \$10,000, with interest thereon from the 1st day of January, 1873.

Wherefore the plaintiff demands judgment against the said defendant for \$10,000, with interest thereon from the said 1st day of January, A. D. 1873, and for the costs of of this action.

M. A. DAYTON, JR.,

Attorney for Plaintiff, 21 Nassau street, N. Y.

CITY AND COUNTY OF NEW YORK, ss.:

Samuel H. Hurd, the plaintiff in this action, being duly sworn, says, that the foregoing complaint is true of his own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters he believes it to be true.

SAMUEL H. HURD,
Receiver, etc.

Sworn to this 25th day {
of July, 1876. }

JAMES H. WYNNÉ,
Notary Public, City and Co. N. Y.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of the Third Avenue Savings Bank
against THOMPSON W. DECKER.

The defendant above named for answer to the complaint of the plaintiff above named in this action.

The defendant denies each and every allegation in the first paragraph or section of said complaint contained, except said defendant admits the making of the bond or writing obligatory in said complaint mentioned.

This defendant, further answering said complaint, denies that he has any knowledge or information sufficient to form a belief as to the allegations in the second paragraph or section of said complaint contained in reference to any judgment of this court whereby the Third Avenue Savings Bank was dissolved, and he denies that, after the execution or delivery of the bond mentioned in said complaint, the Third Avenue Savings Bank did, at the request of this defendant and of the other persons in said complaint alleged to have signed said bond, or of this defendant, or either of said other persons, continue its ordinary business from and after the 15th day of January A. D., 1873, to and including the 4th day of October, 1875, or for any space of time, but he alleges that the continuation of its ordinary business by said The Third Avenue Savings Bank after the said fifteenth day of January, to and including the fourth day of October, and at all other times, was not owing to, or dependent on, or in any way connected with, either the making of said bond, or upon request of this defendant, or of any of the other persons who may have signed said bond.

And this defendant, further answering said complaint, denies that he has any knowledge or information sufficient to form a belief as to

any of the allegations in the third, fourth and fifth paragraphs or sections of said complaint contained.

This defendant, further answering, denies that he is indebted to said plaintiff upon the bond or writing obligatory in said complaint mentioned in the sum of \$2,500, or in any other sum, with interest thereon from the first day of January, 1876, or from any other time.

And this defendant further answering, alleges that the said bond or writing obligatory mentioned in the complaint was made and executed by him without any consideration whatever, of which fact the said The Third Avenue Savings Bank had full notice and knowledge at the time of the making and of the alleged delivery thereof; and this defendant, further answering the complaint, says he will insist upon the trial of this action that the complaint herein does not state facts sufficient to constitute a cause of action against him.

Wherefore, this defendant demands judgment in this action that the complaint of the plaintiff in this action be dismissed, with costs.

LOCKWOOD & CROSBY,

Attorneys for Deft. Thompson W. Decker.

CITY AND COUNTY OF NEW YORK, ss.:

Thompson W. Decker, the defendant in this action, being duly sworn, says that the foregoing answer is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

T. W. DECKER.

Sworn to before me this 8th }
day of September, 1876. }

F. W. KENNEY,

Notary Public for Kings Co.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of the Third Avenue Savings Bank,
against DAVID MORGAN.

The above-named defendant answers the complaint in this action, and denies each and every allegation, in the first paragraph or section of said complaint contained, commencing with the words in the second folio of said complaint: "First. That heretofore," and ending with the words in the tenth folio of said complaint, "obligors be forever released therefrom," except as hereinafter stated.

And as to the allegation in the second section of said complaint contained, commencing with the words, "Second, and the plaintiff

further alleges," in the eleventh folio of said complaint, and ending with the words, "which judgment is now in full force and effect," in the twelfth folio of said complaint this defendant denies that he hath any knowledge of said allegations, or any information thereof, sufficient to form a belief, and he therefore controverts the said allegations and each and every of the same, and every part thereof.

As to the allegations in the fifth section of said complaint contained, commencing with the words "Fifth, and the plaintiff further alleges," in the fourteenth folio of said complaint, and ending with the words, "which came to the hands of the plaintiff as such receiver," in the seventeenth folio of said complaint, this defendant denies that he has any knowledge of said allegations or any information thereof sufficient to form a belief, and he therefore controverts the said allegations and each and every of them and every part thereof.

And upon information and belief this defendant denies that he is justly indebted to said plaintiff as receiver as aforesaid upon the aforesaid bond or writing obligatory in the said sum of \$2,500, with interest thereon from the said 1st day of January, 1873, and for the costs of this action or for any other sum whatever.

Second. As a second and separate defense to the alleged cause of action in the complaint alleged this defendant alleges that on or about the 28th day of December, 1872, this defendant signed a certain instrument in writing, which this defendant believes is now in the possession of the plaintiff, and is the same bond or writing obligatory set forth in the complaint. That a copy of the said instrument is hereto annexed, marked A. But this defendant alleges that the said instrument was executed by defendant without any valuable or other consideration whatever, and he claims and insists that the same is wholly void and of no effect and validity as against this defendant.

Third. As a third and separate defense to the said alleged cause of action in the complaint, this defendant, insisting upon the matters hereinbefore alleged upon information and belief, further alleges, that the said instrument so signed by this defendant was so signed under an alleged agreement with the said Third Avenue Savings Bank, that the said instrument was and is contrary to public policy, illegal and of no validity.

DAVID THURSTON,
Defendant's Attorney.

CITY AND COUNTY OF NEW YORK, ss.:

David Morgan, the defendant in this action, being sworn says, that the foregoing answer is true to the knowledge of deponent, except as

to the matters therein stated on information and belief, and as to those matters he believes it to be true.

DAVID MORGAN.

Sworn to before me, this 15th }
day of September, 1876. }

GEORGE H. FOUNTAIN,
Notary Public (109), N. Y. City and Co.

SCHEDULE A.

Know all men by these presents that we, Wm. A. Darling, John H. Lyon, Daniel Bates, W. S. Bruns, Wm. B. Harison, James Stephens, Andrew Stephens, Jas. Owens, Richard Kelly, D. D. T. Marshall, David Morgan, Geo. Henken, Jr., Thompson W. Decker, Wm. S. Opdyke and John Lacy, in consideration that the Third Avenue Savings Bank of the city of New York, upon the request of each of us hereby made, does continue its ordinary business after the 15th day of January, 1873, and, in further consideration of the mutual covenants hereof, do hereby agree with each other to bind ourselves respectively, and are hereby severally bound each for himself, his respective heirs, executors and administrators, and not one for the other, to pay unto the said Third Avenue Savings Bank, of the city of New York, its successors or assigns, on the 1st day of January, in the year 1883, or six months after a demand therefor, the following sums, respectively, viz.:

Wm. A. Darling, the sum of.....	\$15,000
John H. Lyon, the sum of.....	5,000
Danl. Bates, the sum of.....	10,000
W. S. Bruns, the sum of.....	10,000
W. B. Harison, the sum of.....	10,000
James Stephens, the sum of.....	10,000
Andrew Stephens, the sum of.....	10,000
James Owens, the sum of.....	5,000
Richard Kelly, the sum of.....	10,000
D. D. T. Marshall, the sum of.....	2,500
David Morgan, the sum of.....	2,500
Geo. Henken, Jr., the sum of.....	2,500
Thompson W. Decker, the sum of.....	2,500
Wm. S. Opdyke, the sum of.....	2,500
John Lacey, the sum of.....	2,500

with interest in each case on the said amounts respectively, from the 1st day of January, 1873, at the rate of seven per cent per annum, pay-

able on the first day of January and July in each year, until the principal sums are paid or discharged; and it is expressly agreed, and between the parties hereto, that the payments made on account of either the principal or interest of this bond shall not be claims against the said savings bank, except, however, that all payments so made shall be returned with interest by the said savings bank, *pro rata*, out of any actual surplus acquired by it exceeding the sum of \$100,000, such payments to be made by the said savings bank, *pro rata*, until the whole amount paid hereunder shall be returned with interest; and the said Third Avenue Savings Bank does receive this bond upon the terms herein expressed, and further agrees that whenever an actual surplus exceeding the amount of \$50,000 shall have been acquired by it, then the rate of interest upon the several sums secured by this bond shall be reduced to such extent as shall not impair such surplus, and that proportionate interest shall be allowed and paid by it upon all sums of money actually paid on account of the principal sums secured hereby.

And the said savings bank does further agree that whenever the actual surplus acquired by it shall amount to the sum of \$10,000 exclusive of this bond, then this bond shall be discharged, and the several obligations thereof be forever released therefrom.

In witness whereof we have hereunto set our respective hands and seals, and the said savings bank has hereunto affixed its corporate seal, and caused these presents to be attested by its officers, this 28th day of December, 1872.

In the presence of :

WM. A. DARLING.	[L. s.]	RICHD. KELLY.	[L. s.]
JOHN H. LYON.	[L. s.]	D. D. T. MARSHALL.	[L. s.]
DANL. BATES.	[L. s.]	DAVID MORGAN.	[L. s.]
WM. D. BRUNS.	[L. s.]	GEO. HENKEN, JR.	[L. s.]
WM. B. HARISON.	[L. s.]	T. W. DECKER.	[L. s.]
JAMES STEPHENS.	[L. s.]	WM. S. OPDYKE.	[L. s.]
ANDW. STEPHENS.	[L. s.]	JOHN LACEY.	[L. s.]
JAMES OWENS.	[L. s.]		

DAVID BATES, *Vice-Prest.*

DAVID MORGAN, *Sec'y.*

[Seal bank.]

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of the Third Avenue Savings Bank,
against WILLIAM D. BRUNS.

Action No. 1, for \$10,000.

The above-named defendant, in answer to the complaint in this action, respectfully shows unto this court:

First. That the bond or writing obligatory set forth in the said complaint, was executed by this defendant without any consideration therefor other than is expressed upon the face of the said bond.

Second. That there was included in the aggregate of the amount of the obligation of W. A. Darling, James Owens, Daniel Bates, James Stephens, Andrew Stevens and this defendant, under said bond or writing obligatory set forth in the said complaint, the sum of \$25,000, which was subscribed by them for and on behalf of one Spencer K. Green, who was then absent from the city of New York; and it was agreed by and between the said obligors, William A. Darling, James Owens, Daniel Bates, James Stephens, Andrew Stevens and this defendant and the Third Avenue Savings Bank, the obligee in said bond or writing obligatory, at the time of the execution thereof by the said last-mentioned obligors, that so much of the said amount of \$25,000, so subscribed for the said Spencer K. Green as should thereafter be subscribed by him, should be received in equal proportions upon the amount subscribed by the said last-mentioned obligors, and credited to them upon the said bond or writing obligatory, upon the execution and delivery by the said Spencer K. Green of a bond or writing obligatory for such amount as he should subscribe. That upon the 17th day of January, 1874, the said Spencer K. Green did subscribe, for the purposes set forth in the said bond or writing obligatory, the sum of \$15,000, and did execute and deliver to the said bank his bond or writing obligatory therefor, which was duly accepted by the said bank, and this defendant claims that thereupon and thereby the principal sum or amount of the obligation of this defendant upon said first-mentioned bond or writing obligatory became and was reduced to \$7,500, and this defendant released from said bond accordingly.

Third. That this defendant joined in and executed the said bond or writing obligatory, set forth in the said complaint, in good faith, and with an honest desire to sustain the said bank and to enable it to continue business, and believing that the best interests of the depositors would be subserved thereby; that this defendant was induced to form such judgment and to execute said bond or writing obligatory by relying entirely upon a report upon the condition of the said bank made at the time of the execution of the said bond by a committee then before appointed by the board of trustees of the said bank to investigate and report upon its condition, which report this defendant believed to be true; that in and by the said report it appeared and was stated that under the most favorable aspect there was a deficiency of assets to meet the liabilities of said bank of something less than \$100,000, and by the said report it also appeared and was stated that there was due at the date thereof to the depositors of said bank the sum in said report stated, whereas, in truth and in fact,

there was at that time due to the said depositors at least \$60,000 more than was stated in said report, of which fact this defendant was entirely ignorant at the time he executed said bond, and that, had he known or been informed of such discrepancy, he would never have executed the same; he, therefore, denies that there is any amount justly due and owing the said plaintiff upon the said bond or writing obligatory, whatever.

W. B. HARISON,
Attorney for Defendant.

CITY AND COUNTY OF NEW YORK, ss.:

William D. Bruns, the above-named defendant, being duly sworn, saith that the foregoing answer is true of his own knowledge, except as to those matters that are therein stated to be on information and belief, and as to those matters he believes it to be true.

W. D. BRUNS.

Sworn before me, this 27th }
day of September, 1876. }

JAMES C. DE LA MARE,
Notary Public, N. Y. Co.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank,
against WILLIAM B. HARISON.

Action No. 1, for \$10,000.

The above-named defendant, in answer to the complaint in this action, respectfully shows unto this court :

First. That he alleges that there was no other or further consideration for the bond or writing obligatory set forth in the complaint in this action, than is expressed upon the face of said bond.

Second. That this defendant joined in and executed the said bond or writing obligatory to the obligee therein, in good faith and with an honest desire to sustain the said obligee (The Third Avenue Savings Bank) and enable it to continue business, and believing that the best interests of the depositors would be subserved thereby. That this defendant was induced to form such judgment and to execute said bond or writing obligatory, by relying entirely upon a report upon the condition of the said bank, made at the time of the execution of the said bond, by a committee then before appointed, by the board of trustees of the said bank, to investigate and report upon its condition, which report this defendant believed to be true. That in and

by said report, it appeared and was stated that under the most favorable aspect there was a deficiency of assets to meet the liabilities of the said bond, or something less than \$100,000, and in and by said report it also appeared and was stated, that there was due at the date thereof, to the depositors of said bank, the sum in said report stated, whereas, in truth and in fact, there was at that time due to the said depositors, at least \$60,000 more than was stated in the said report, of which fact this defendant was entirely ignorant at the time he executed the said bond, and that had he known or been informed of such discrepancy, he would never have executed the same. He therefore denies that there is any amount due and owing the said plaintiff upon the said bond or writing obligatory, whatever.

W. B. HARISON,

Defendant in person.

CITY AND COUNTY OF NEW YORK, ss. :

William B. Harison, the above-named defendant, being duly sworn, saith that the foregoing answer is true of his own knowledge except as to those matters that are therein stated on information and belief, and as to those matters he believes the same to be true.

W. B. HARISON.

Sworn before me, this 27th day of }
September, 1876. }

J. C. DE LA MARE,

Notary Public, N. Y.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank,
against JAMES OWENS.

The defendant, answering the complaint of the plaintiff in this action, respectfully shows unto the court:

First. That said bond was made upon the following understanding and agreement, that is to say, it was understood and agreed by and between this defendant and the said The Third Avenue Savings Bank, that if this defendant would sign the said alleged bond for the sum of \$5,000, as alleged in the complaint, and afterward, one Spencer K. Green should sign or become similarly bound to said bank, for the sum of \$5,000 or more, that then and in that case, this defendant was to be and considered released, discharged and absolved from the said alleged bond and from all claim and liability thereon or on account thereof; and this defendant alleges that the

said Spencer K. Green did thereafter sign and become so bound and obligated to the said The Third Avenue Savings Bank, in the sum of \$5,000 or more, to wit, the sum of \$15,000, and by reason thereof, this defendant became and was thereby released, absolved and discharged from the said alleged bond or obligation, if any liability was incurred or involved by the defendant, by the making by defendant as alleged of the said alleged bond or obligation, and he is not liable for any sum whatever by reason of or on account thereof.

Second. This defendant alleges and shows, that said bond was made upon the following understanding and agreement, that is to say, it was understood and agreed by and between the defendant and the said The Third Avenue Savings Bank through its trustees, that so much of the amount of the said bond mentioned in the complaint, as might be subscribed or signed for to the extent of \$25,000, by Spencer K. Green, should be received in equal proportions and credited or taken in place and stead of a like amount from the sums subscribed and signed for by this defendant, William A. Dowling, Daniel Bates, James Stephens, William D. Bruns and Andrew Stephens, share and share alike, and they and each of them be released from said bond for the said amount so subscribed and signed for by said Spencer K. Green ; and this defendant alleges that the said Spencer K. Green did thereafter subscribe, sign for and become bound and obligated to the said The Third Avenue Savings Bank in the sum of \$15,000, and by reason thereof this defendant became and was thereby released, absolved and discharged from the said alleged bond or obligation to the extent of the sum of \$2,500, if any liability was ever incurred or involved by this defendant by the making by defendant, as alleged, of the said alleged bond or obligation.

Third. This defendant alleges that all of the trustees of said Third Avenue Savings Bank did not sign, execute, acknowledge and deliver the said alleged bond ; that William Laimbeer, Severn D. Moulton, Charles B. Cornell, Philip J. Seiter and Leander Stone, who were at the said time trustees of said bank, did not sign, execute, acknowledge or deliver the said bond.

Fourth. This defendant alleges that no consideration whatever was paid or given by the said The Third Avenue Savings Bank to this defendant for the said bond or the making thereof, nor did this defendant ever receive any consideration therefor or benefit thereby, but the same was made by this defendant solely for the accommodation of the said The Third Avenue Savings Bank and not otherwise, and this defendant denies that there is any sum whatever due to plaintiff from this defendant on account thereof.

Fifth. This defendant further shows that at the time of the making

of said bond, the said The Third Avenue Savings Bank was insolvent, and the property and assets thereof were insufficient to pay the depositors thereof the full amount that was due them, and the said fact was well known to the said bank and the trustees thereof, and to Daniel C. Howell, the person who at said time was Superintendent of Banks of the State of New York, and the said bank was liable at law to have been put into immediate liquidation, and it was the legal and lawful duty of the said Superintendent of Banks to have placed the said bank into liquidation and to have wound the same up; but instead of so doing, and in pursuance of an illegal and unlawful agreement at said time entered into by and between the said bank and said Superintendent of Banks for the purpose of evading and avoiding a compliance with the law in that behalf the said bond was made, and not otherwise.

That said agreement, bond and all proceedings connected therewith were and are in contravention of law, and totally and wholly void.

Sixth. And this defendant avers that it was not intended on the part of this defendant and the other signers of said bond or the said The Third Avenue Savings Bank at the time of the making of the said bond, that any money whatever should be paid or demanded by reason of said bond or the making thereof.

Seventh. And defendant alleges that the said bond or obligation, if valid and binding upon this defendant at all, does not become due and payable until the first day of January, which will be in the year 1883.

Wherefore defendant demands judgment that the complaint herein be dismissed with the costs of this action.

CULVER & WRIGHT,

Defendant's Attorneys, 132 Nassau street, New York.

CITY AND COUNTY OF NEW YORK:

James Owens, being duly sworn, says that he is the defendant in the above-entitled action; that he has read the foregoing answer and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

JAMES OWENS.

Sworn to before me, this 26th }
day of September, 1876. }

THEODORE WRIGHT,

Commissioner of Deeds, N. Y. Co.

SUPREME COURT.—COUNTY OF NEW YORK.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank, plaintiff, *against* DANIEL D. T. MARSHALL, defendant.

The answer of the defendant, who appears herein by Arnoux, Rich & Woodford, his attorneys:

First. The defendant denies each and every allegation in the complaint contained, except as hereinafter admitted.

Second. The defendant admits that, on or about the thirtieth (30th) day of December, 1872, he signed a bond bearing date the 28th day of December, 1872, in substance as set forth in the first paragraph of said complaint, and that the said Third Avenue Savings Bank did continue its ordinary business after the 15th day of January, 1873, as set forth in the second paragraph of said complaint, and that a demand has been made upon him for the sum of (\$2,500) two thousand five hundred dollars, which this defendant refused to pay, as set forth in the sixth paragraph of said complaint.

Third. For a defense to this action the defendant says, that at the time aforesaid he was not and never since has been a trustee or officer of the said The Third Avenue Savings Bank, and was, personally, wholly ignorant of its condition and affairs. At the time of signing said bond it was represented to defendant, by and on behalf of said savings bank, that the said bank was solvent and had an actual surplus of from eight to twelve thousand dollars, and that the said bond, so to be signed by this defendant, should be given for the sum of two hundred thousand dollars (\$200,000), for the purpose of showing to the public that the said bank had a surplus of over two hundred thousand dollars (\$200,000), and thus restoring public confidence in the said bank; and it was further represented that all the trustees of said bank then in office would sign said bond, and that most, if not all the old trustees would sign the same; and this defendant, relying upon the aforesaid promises and representations, signed the said bond, which otherwise he would not have done.

This defendant further shows that said representations were false and were then known by said bank to be false; that at the time said representations were made there was no surplus whatever of assets over liabilities, but, on the contrary, the said bank was insolvent, and its deficiency exceeded eighty-five thousand dollars (\$85,000); that said bond was not given for the sum of two hundred thousand dollars (\$200,000), but only for the sum of one hundred thousand dollars (\$100,000); and in consequence of the failure to give the bond agreed upon, public confidence was not restored in said bank, and the depositors thereof continued to withdraw their funds, whereby the failure

of said bank was caused; that all the trustees then in office did not sign said bond, and none of the old trustees signed the same after this defendant had signed it.

Fourth. For a further defense to this action this defendant says that he never delivered, or authorized any person on his behalf to deliver the said bond, but after he, this deponent, had signed the same, he intrusted the said bond to the person or persons who procured his signature, for the sole and express purpose of having the said bond executed by all the other trustees of said bank, then in office who had not signed the same, and as many of the old trustees of said bank as could be procured to sign the same, until the requisite amount of two hundred thousand dollars (\$200,000) had been obtained; and defendant says that the said bond, as to him, has never been delivered, and has never become a valid or binding instrument.

And this defendant further says that he discovered the said fraud before the first installment of interest became due, and thereupon refused to recognize the said bond as a binding obligation, or to pay the interest thereon, and he has ever since refused to pay the same or any part thereof.

Fifth. This defendant further says that the said bond is without consideration, and is void.

Wherefore defendant prays that the complaint be dismissed, with costs.

ARNOUX, RITCH & WOODFORD,
Attorneys for Defendant.

CITY AND COUNTY OF NEW YORK, ss. :

Daniel D. T. Marshall, being duly sworn, says that he is the defendant in the above-entitled action; that the answer is true of his own knowledge, except as to the matters therein stated upon information and belief, and as to those matters he believes it to be true.

D. D. T. MARSHALL.

Sworn to before me, this 30th)
day of September, 1876. }

JOSHUA M. FIERO,
Notary Public.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, etc., *against* RICHARD KELLY.

The amended answer of the above-named defendant to the complaint of plaintiff by Kelly & McRae, attorneys for said defendant :

I. This defendant alleges that the plaintiff has no capacity to sue in this action.

II. That the complaint does not state facts sufficient to constitute a cause of action.

III. This defendant further answering denies each and every allegation of the complaint, except as hereinafter admitted, controverted or denied.

IV. Defendant alleges that he signed a bond of the tenor and in the amount set forth in the complaint, but prays a discovery and inspection of said bond as to the real and true contents thereof.

V. That defendant, before and at the time of such signing of said bond by him, did so, without any consideration, and upon the request and representations of William Laimbeer, W. A. Darling and D. Morgan, officers of said bank, who stated that said bond was intended to be merely nominal and formal, and without any legal obligation or force, and was only intended to be used in reference to the relations of said Third Avenue Savings Bank to the Banking Department, or like officials at Albany, so that a better showing of the apparent assets of said bank would appear.

VI. And for a further defense this defendant alleges that he also signed said bond upon certain representations then made by said Laimbeer, Darling and Morgan, on behalf of said bank, that said bond was not needed as an asset thereof in the ordinary or general business of the bank, but only as aforesaid, and said Laimbeer, Morgan and Darling further represented that there was no deficit between the assets and liabilities of said bank, of any appreciable amount, whereas it was known and ascertained by the officers of said bank that it was then actually short or deficient in its assets, as compared with its liabilities from \$250,000 to \$300,000, and which if defendant had known or suspected, he would not have signed or entered into said bond.

VII. Defendant further answering, says that he was also induced to sign said bond upon the representations that other parties, who have not signed said bond, would also execute the same, and that the names of said parties are William Laimbeer, Spencer K. Green, Serven D. Moulton and others of the trustees, and that it was not intended that said bond was to become, as against this defendant, obligatory or binding unless said parties executed the same, and that they have not done so as defendant is informed and verily believes.

VIII. That no demand was ever made by said bank for the payment of said bond, nor was any notice of any deficiency in the assets of said bank, ever given to defendant.

And for a counter-claim and cause of action against plaintiff as receiver of said bank, defendant says that between the first day of January, 1873, and 1st March, 1875, he paid to, and deposited with,

said bank the sum of \$1,400, no part of which has been repaid to defendant, and for which defendant demands judgment.

KELLY & MACRAE,

Defendant's Attorneys.

CITY AND COUNTY OF NEW YORK, ss.:

Richard Kelly, being duly sworn, says, that he is the defendant herein, that the foregoing answer is true of his own knowledge except as to matters stated on information and belief, and as to those matters he believes it to be true.

RICHARD KELLY.

Sworn to before me, this 2d }
day of October, 1876. }

EDWARD C. CHRISTIE,
Notary Public, New York County.

SUPREME COURT.

SAMUEL H. HURD, receiver, etc., *against* JOHN H. LYON.

John H. Lyon, the defendant above named, by Sewell & Pierce, his attorneys, for answer to the complaint of the plaintiff herein, respectfully shows to the court:

I. He admits that he executed under his hand and seal, with certain other parties whose names are not now remembered by him, a certain bond or writing obligatory about the date of the prayer mentioned in the complaint; but as to whether said bond, so executed by this defendant, was of the tenor or to the effect set forth in the complaint, or was signed by the parties whose names are mentioned in the complaint in addition to this defendant, this defendant has no information sufficient to form a belief. He, therefore, craves that the plaintiff may produce in court, on the trial of this action, the original bond mentioned in the complaint, to the end that its true intent and tenor may appear.

Second. And for a second and separate defense, the said defendant, further answering, shows to the court:

I. That the said defendant consented and agreed to sign the bond mentioned in the complaint solely upon condition that the same should be signed by William A. Lambier, and this defendant set his hand and seal to the paper solely upon the condition that the same should be signed by the said William A. Lambier. The said paper never was signed by the said William A. Lambier, and never went into force and effect.

Third. And for a third and separate defense, the said defendant, further answering, shows:

I. That the corporation of which the plaintiff is receiver, to wit, the Third Avenue Savings Bank, to whom the said bond or writing obligatory was given, and with whom the covenants set forth in the said complaint were made, was a corporation created and existing under and by virtue of the provisions of an act of the Legislature entitled, "An act to incorporate the Bloomingdale Savings Bank," passed April 17, 1854, and certain acts amendatory thereof, and had no powers except those conferred upon it by the said acts and the powers necessary to carry out the said expressed powers; that it had no power to enter into the covenants mentioned in the complaint, and had no power to accept or receive the bond mentioned in the complaint, and the said contract or bond was not necessary for it to make in the carrying out of any of the powers vested in it, the said corporation; that the said contract set forth in the complaint was, as respects the said Third Avenue Savings Bank, *ultra vires* and void.

Fourth. And for a further and separate defense the said defendant, further answering, shows to the court:

I. That the bond or writing obligatory, mentioned in the complaint herein, was made and executed by this defendant without any consideration whatever.

Fifth. And the said defendant, for a fifth and separate defense and counter-claim, further answering, shows:

I. That at the time mentioned in the complaint when the plaintiff was appointed receiver, the said The Third Avenue Savings Bank, of which bank the said plaintiff was so appointed receiver, was justly indebted to this plaintiff in the sum of five thousand dollars (\$5,000), and over, for work, labor, and services done and performed during the years 1871 and 1872, as the president and chief executive officer of said corporation, at the request and upon the election of the board of directors of said corporation, which said services were rendered by the defendant to the said corporation upon the express understanding and agreement that the said corporation should pay him therefor such sums as his said services should be reasonably worth.

II. That the defendant served in said capacity of president during the years of 1871 and 1872, and fully discharged all the duties of said office, giving his time and labor to the said duties; that said services were reasonably worth the said sum of three thousand dollars (\$3,000) for the year 1871, which became due and payable on the 1st of January, 1872, and three thousand dollars (\$3,000) for the year 1872, which became due and payable on the 1st day of January, 1873; that no part of said claim has been paid, although often demanded by the defendant herein, and there is now justly due to

him the aforesaid sums, together with interest thereon from the aforesaid days.

Sixth. And for a further and separate defense and counter-claim the defendant shows:

I. That the Third Avenue Savings Bank was, at the date of the appointment of the plaintiff as receiver, indebted to the defendant in the sum of \$600, which this defendant deposited with said bank; which said \$600 this defendant has demanded from the plaintiff, and which the plaintiff has refused to pay; and there is now due and owing to the plaintiff thereby the sum of \$600, with interest thereon from the first day of November, 1873.

Wherefore the defendant demands judgment.

That the said plaintiff shall take nothing by his complaint in this action, and shall be adjudged to have no cause of action against the defendant herein, and that the defendant shall recover from the plaintiff the aforesaid sum of six thousand six hundred dollars (\$6,600), together with interest on the sum of \$3,000 from the 1st day of January, 1872, and on the sum of \$3,000 from the 1st day of January, 1873, and on the sum of \$600 from the 1st of November, 1873, with the costs of this action.

SEWELL & PIERCE,

Attorneys for Defendant.

CITY AND COUNTY OF NEW YORK, ss.:

John H. Lyon, being duly sworn, says that he is the defendant in this action; that the foregoing answer is true of his own knowledge, except as to those matters therein stated on information and belief, and as to such matters he believes it to be true.

JOHN H. LYON.

Sworn to before me, this 6th }
day of October, 1876, }

JAMES B. LOCKWOOD,

Notary Public, N. Y. City and Co.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank,
against WILLIAM C. DARLING.

The defendant answering the complaint of the plaintiff in this action: ,

First. Denies that at the time mentioned in said complaint or at any time, he made, sealed, executed, and delivered the bond or writing described in said complaint, jointly with the persons mentioned in

said complaint, or otherwise; or that he made, executed, sealed or delivered any bond or writing containing the terms, conditions or provisions set forth in the first paragraph of said complaint.

Second. This defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second, third, fourth and fifth paragraphs of said complaint, and he, therefore, denies each and every allegation in said complaint contained, excepting that he admits the request alleged in said second paragraph to have been made to him.

For a further and separate answer and defense to said complaint, this defendant alleges that he made the writing of which the following is a copy :

Know all men by these presents that we, William A. Darling, John H. Lyon, Daniel Bates, W. D. Bruns, William B. Harison, James Stephens, Andrew Stephens, James Owens, Richard Kelly, D. D. T. Marshall, David Morgan, George Hencken, Jr., Thompson W. Decker, William S. Opdyke and John Lacey, in consideration that the Third Avenue Savings Bank, of the city of New York, upon the request of each of us hereby made, does continue its ordinary business after the 15th day of January, 1873, and, in further consideration of the mutual covenants hereof, do hereby agree with each other to bind ourselves respectively, and we hereby severally bound, each for himself, his respective heirs, executors and administrators, and not one for the other, to pay unto the said The Third Avenue Savings Bank of the city of New York, its successors or assigns, on the 1st day of January, in the year one thousand eight hundred and eighty-three (1883) or six months after a demand therefor, the following sums respectively, viz.: The said William A. Darling the sum of fifteen thousand dollars (\$15,000); the said John H. Lyon the sum of five thousand dollars (\$5,000); the said Daniel Bates the sum of ten thousand dollars (\$10,000); the said W. D. Bruns the sum of ten thousand dollars (\$10,000); the said William B. Harison the sum of ten thousand dollars (\$10,000); the said James Stephens the sum of ten thousand dollars (\$10,000); the said Andrew Stevens the sum of ten thousand dollars (\$10,000); the said James Owens the sum of five thousand dollars (\$5,000); the said Richard Kelly the sum of ten thousand dollars (\$10,000); the said D. D. T. Marshall the sum of twenty-five hundred dollars (\$2,500); the said David Morgan, George Henken, Jr., Thompson W. Decker, William S. Opdyke, each the sum of twenty-five hundred dollars (\$2,500), and the said John Lacey the sum of twenty-five hundred dollars (\$2,500), with interest in each case on the said amounts respectively from the 1st day of January, 1873, at the rate of seven per centum per annum, payable on the 1st days

of January and July in each year until the principal sums are paid or discharged.

And it is expressly agreed by and between the parties hereto that the payments made on account of either the principal or interest of this bond shall not be claims against the said savings bank, nor constitute a debt of the said savings bank, except, however, that all payments so made shall be returned with interest by the said savings bank, *pro rata*, out of any actual surplus acquired by it exceeding the sum of \$100,000, such payments to be made by the said savings bank, *pro rata*, until the whole amounts paid hereunder shall be returned with interest.

And the said Third Avenue Savings Bank does receive this bond upon the terms herein expressed, and further agrees that whenever an actual surplus exceeding the amount of \$50,000 shall have been acquired by it, then the rate of interest upon the several sums secured by this bond shall be reduced to such extent as shall not impair such surplus, and that proportionate interest shall be allowed and paid by it upon all sums of money actually paid on account of the principal sums secured hereby.

And the said savings bank does further agree that whenever the actual surplus acquired by it shall amount to the sum of \$10,000, exclusive of this bond, then this bond shall be discharged and the several obligors thereof be forever released therefrom.

In witness whereof we have hereunto set our respective hands and seals and the said savings bank has hereunto fixed its corporate seal and caused these presents to be attested by its officers this 28th day of December, in the year 1872.

WILLIAM A. DARLING.	[L. S.]	RICHARD KELLY.	[L. S.]
JOHN H. LYON.	[L. S.]	D. D. T. MARSHALL.	[L. S.]
DANIEL BATES.	[L. S.]	DAVID MORGAN.	[L. S.]
WM. D. BRUNS.	[L. S.]	GEORGE HENKEN, JR.,	[L. S.]
W. B. HARISON.	[L. S.]	T. W. DECKER.	[L. S.]
JAS. STEPHENS.	[L. S.]	WM. S. OPDYKE.	[L. S.]
ANDREW STEVENS.	[L. S.]	JOHN LACEY.	[L. S.]
JAMES OWENS.	[L. S.]		

In presence of [the word "severally" }
interlined on the eighteenth line of }
the first page before execution.] }

HENRY C. WEEKS.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

On the 28th day of December, 1872, personally appeared before me Wm. A. Darling, Daniel Bates, Wm. D. Bruns, Wm. B. Harison,

James Stephens, Andrew Stevens, James Owens, David Morgan, George Hencken, Jr., T. W. Decker and W. S. Opdyke, and also on the 30th day of December, 1872, personally appeared before me John H. Lyon, Richard Kelly, John Lacey and D. D. T. Marshall, known to me to be the individuals described in and who executed the foregoing instrument, and severally acknowledged that they executed the same for the purposes therein contained.

[Seal of Third Avenue
Savings Bank.]

HENRY C. WEEKS, *Notary Public.*

DANIEL BATES, *Vice-President.*

DAVID MORGAN, *Secretary.*

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss. :

On the 30th day of December, 1872, before me came David Morgan, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides in the city of New York; that he is the secretary of the Third Avenue Savings Bank, to him known to be the same corporation described in, and which executed, the foregoing instrument; that the seal affixed to the instrument is the corporate seal of said corporation and was affixed thereto by its authority, and that he, its secretary, and Daniel Bates, its vice-president, subscribed their names thereto by its authority.

HENRY C. WEEKS,

Notary Public (50), New York Co.

That said writing may be the bond or writing obligatory the plaintiff intended to describe in said complaint.

Fourth. And this defendant further alleges that at the time of making the said writing the said Third Avenue Savings Bank was insolvent and the property and assets thereof was insufficient to pay the depositors thereof the full amount that was due them, as the defendant has been informed since the making of said bond, and the said fact was well known to the said bank, and the trustees thereof, and to Daniel C. Howell who, at said time, was Superintendent of Banks in the State of New York, and the said bank was liable at law to have been put into immediate liquidation, and it was the duty of the said Superintendent of Banks to have placed said bank in liquidation and have the same wound up, but instead of so doing, and in pursuance of the illegal and unlawful agreement at said time entered into by and between the said bank and said Superintendent of Banks for the purpose of evading and avoiding a compliance with the law, in that behalf the said writing was made and not otherwise.

That said agreement, bond and all proceedings connected therewith, were and are in contravention of law and totally void.

Fifth. And this defendant further alleges that no consideration

whatever was paid or given to this defendant for the said writing or the making thereof, nor did this defendant ever receive any consideration therefor or benefit thereby, but the same was made by the defendant solely as hereinbefore already stated and not otherwise ; and this defendant denies that there is any sum whatever due to plaintiff from this defendant on account thereof.

Sixth. This defendant alleges that all of the trustees of said Third Avenue Savings Bank did not sign, execute, acknowledge and deliver the said alleged bond ; that William Laimbier, Severn D. Moulton, Charles B. Cornell, Philip J. Seiter, Leander Stone, who were at the said time trustees of said bank, did not sign, execute, acknowledge and deliver the said bond as it was agreed they should do.

Seventh. This defendant further alleges and shows that said writing was made upon the following understanding and agreement, that is to say, it was understood and agreed that so much of the amount of said writing mentioned in the complaint, as might be subscribed or signed for, to the extent of twenty-five thousand dollars (\$25,000), by Spencer K. Green, should be received in equal proportions, and credited or taken in place and stead of the like amount from the sum subscribed and signed for by this defendant, James Owens, Daniel Bates, James Stephens, W. D. Bruns, Andrew Stevens, share and share alike, and they and each of them be released from said writing for the said amount subscribed and signed for by said Spencer K. Green ; and this defendant alleges that said Spencer K. Green did thereafter subscribe and sign for in the sum of fifteen thousand dollars (\$15,000), and by reason thereof this defendant became and was thereby released, absolved and discharged from the said alleged writing to the extent of \$2,500, if any liability was ever or at all incurred or involved by this defendant, by the making, by said defendant, of said bond or obligation.

Eighth. And this defendant avers and alleges that it was not intended on the part of this defendant, and the other signers of this writing, or the Third Avenue Savings Bank, at the time of making said writing, that any money whatever should be paid or demanded by reason of said writing or the making thereof.

Wherefore the defendant demands that the complaint herein may be dismissed, with costs.

A. J. DITTENHOEFER.

Attorney for Defendant.

CITY AND COUNTY OF NEW YORK, ss. :

William A. Darling, being duly sworn, says that he is the above-named defendant ; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge,

except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

WILLIAM A. DARLING.

Sworn to before me, this 21st }
day of October, 1876. }

JAMES DIXON, *Notary Public*.

SUPREME COURT—CITY AND COUNTY OF NEW YORK.

No. 2.

SAMUEL H. HURD *against* GEORGE HENCKEN, Jr.

The defendant, by Scudder & Carter, his attorneys, answers the complaint of the plaintiff, and alleges that it is untrue that the defendant, on the 28th day of January, 1872, executed the bond in said complaint described, but defendant admits that he did, on the 28th day of January, 1873, together with the other persons named in said complaint, execute a bond of like tenor of that therein described, but which said bond contained other terms and conditions besides those alleged and to which the defendant refers, when the same shall be produced on the trial of this cause, and defendant denies that there was any consideration for said bond, and alleges that prior to said 28th day of January, 1873, and on or about the 28th day of December, 1872, the said Third Avenue Savings Bank agreed for the consideration of \$100,000, then agreed to be paid it, to carry on its said business as in the complaint alleged, which promise had not been released or performed, and that the said consideration expressed in the bond—sued on herein, was not and could not be a new consideration therefor.

And the defendant alleges that the bond in said complaint described, was procured to be signed by this defendant by the other parties thereto named in the complaint, who were, and some of whom for a long time had been, the trustees and officers of said Third Avenue Savings Bank, which had heretofore for many years, carried on the business of a bank for savings in the city of New York, under the control of said persons as its officers; that defendant, during his absence in Europe in the year 1872, without any procurement on his part, had been elected a trustee of said bank, of which election he first received notice some time after his return from Europe in October, 1872, and that he never attended any meeting of said trustees or took any part in the affairs of said bank until the month of December, 1872. That defendant was wholly ignorant of the affairs of said bank or its property, or the value thereof, or what and for what purpose it had liabilities except such information as was, on the 28th day of December, 1872, furnished by a statement then and there

presented by its said officers, showing such assets and indebtedness, and representing that the said assets were of the probable value of \$1,-40,396, but were estimated by the said officers at \$1,564,938.90, and produced an income of \$87,554, and that the liabilities of said bank, exclusive of the sum of \$99,939, for salaries, taxes and other items, were \$1,536,253.51, which statement of valuation of assets was false and fraudulent, and was intended to deceive, and did deceive, defendant as to the condition of said bank, and its ability to carry on its business, and defendant says that at that time the said bank was insolvent, and unable to continue its business under the laws of the State of New York, which was well known to its said officers above mentioned, and that the said statement was made as an inducement to the defendant to sign the said bond.

And defendant has no knowledge nor information sufficient to form a belief as to the allegations of the second and fourth paragraphs of the complaint, and therefore denies the same.

Wherefore defendant demands judgment that the complaint be dismissed, with costs.

SCUDDER & CARTER,
Defendant's Attorneys.

CITY AND COUNTY OF NEW YORK, ss.:

George Hencken, Jr., being duly sworn, says, that he has read the foregoing complaint, that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

GEORGE HENCKEN, JR.

Sworn to before me, this 14th }
day of September, 1876. }

SAML. B. CALDWELL,
Notary Public, Queens Co., N. Y.

NEW YORK SUPREME COURT,

SAMUEL H. HURD, as receiver of the Third Avenue Savings Bank,
plaintiff, *against* WILLIAM D. BRUNS, defendant.

Summons for a money demand on contract.

To the defendant :

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber at his office, No. 2 Nassau street, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer the complaint within the time afore-

said the plaintiff in this action will take judgment against you for the sum of \$300, with interest from the 28th day of January, 1872, besides the costs of this action.

M. A. DAYTON, JR.,

Plaintiff's Attorney, 21 Nassau street, N. Y.

Dated *July 24*, 1876.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank,
plaintiff, *against* WILLIAM D. BRUNS, defendant.

CITY AND COUNTY OF NEW YORK, ss.:

Samuel H. Hurd, as receiver of The Third Avenue Savings Bank, the plaintiff in this action, by M. A. Dayton, Jr., his attorney, complains of William D. Bruns, defendant in this action, and alleges as follows:

First. That heretofore, to wit, on the twenty-eighth day of January, one thousand eight hundred and seventy-two, at the city and county of New York aforesaid, the above-named defendant, together with David Morgan, James Stephens, Daniel Bates, William A. Darling, Andrew Stevens, T. W. Decker, James Owens, W. B. Harison, William S. Opdyke, S. D. Moulton, George Hencken, Jr., John H. Lyon, John Lacey, and Spencer K. Green, made their certain bond or writing obligatory, bearing date the day and year last aforesaid, and sealed with their seals, whereby, in consideration that the said The Third Avenue Savings Bank of the city of New York, upon the request of them and each of them thereby made, should continue its ordinary business after the 1st day of January, 1873, they and each of them bound themselves severally, each for himself, his heirs, executors and administrators, and not one for the other, to pay unto the said The Third Avenue Savings Bank of the city of New York, its successors or assigns, during the year one thousand eight hundred and seventy-three, each the sum of \$600, or so much thereof as should be necessary to enable the said savings bank to supplement any deficiency in its income to make its payments of interest and expenses during the said year, the said payments to be made on the thirtieth days of June and December.

And the plaintiff further alleges, that it was thereby further expressly agreed between the said defendant and the other above-named persons and the said The Third Avenue Savings Bank, that the payments to be made on account of the principal sums in said bond or writing obligatory mentioned, should not constitute or be

a lien or debt against the said The Third Avenue Savings Bank, except that all payments so to be made should be a lien upon any actual surplus acquired by it, exceeding the sum of \$50,000, and should be repaid by the said bank after it, the said bank, in the ordinary course of its business, should acquire a surplus exceeding the said sum of \$50,000, and upon the order of the board of trustees of the said bank.

Second. And the plaintiff further alleges, that afterward and on or about the 4th day of October, A. D. 1875, in a certain action then pending in this court, wherein the People of the State of New York were plaintiffs and the said The Third Avenue Savings Bank were defendants, it was, amongst other things, ordered, adjudged and decreed by this court that the said The Third Avenue Savings Bank, the defendant in said action, be and it was thereby dissolved, and from thenceforth it determine and cease to exist as a body corporate, which judgment is now in full force and effect; and that after the execution and delivery of the said bond or writing obligatory as aforesaid, the said The Third Avenue Savings Bank did, at the request of the said defendant and the other above-named persons, and each of them, continue its ordinary business from and after the said 1st day of January, A. D. 1873, to and including the said 4th day of October, A. D. 1875, when it was dissolved by the said judgment of the court, and ceased to exist as a body corporate as aforesaid.

Third. And the plaintiff further alleges that the said defendant paid to the said The Third Avenue Savings Bank, on account of his liabilities upon the said bond or writing obligatory, the sum of \$300.

Fourth. And the plaintiff further alleges, upon information and belief, that after the execution and delivery of the said bond or writing obligatory, by the said defendant, and the other above-named persons as aforesaid, and during the year 1873, there was a deficiency in the income of the said The Third Avenue Savings Bank, applicable to the payment of interest and expenses in said bond or writing obligatory mentioned, during said year, which deficiency amounted to the sum of \$10,000, and upwards. And the plaintiff further alleges that the said defendant did not, within the said year 1873, or at any time thereafter, pay to the said The Third Avenue Savings Bank, the said sum of \$600 in said bond or writing obligatory mentioned, or any part thereof, except the sum of \$300; and he further alleges that the said The Third Avenue Savings Bank did not at any time between the day of the date of the said bond or writing obligatory and the day of the date of said judgment, in the second paragraph of this complaint mentioned, acquire an actual surplus exceeding or beyond the amount of \$50,000, nor did it, the said The Third Avenue Savings Bank, at any time between the dates last aforesaid, acquire any actual surplus whatever.

Fifth. And the plaintiff further alleges that, by an order duly made and entered in the aforesaid and above-mentioned action, wherein the people of the State of New York were plaintiffs, and the said The Third Avenue Savings Bank was defendant, on the 6th day of December, 1875, he, the said plaintiff, was appointed receiver of all the stock, property, things in action and effects, real and personal, of the said The Third Avenue Savings Bank, upon his executing to the people of the State of New York a bond in the form and penalty prescribed by said order, and to be approved by a justice of said court and filed with the clerk of the county of Albany.

And the plaintiff further alleges that he has, in all respects, fully complied with the requirements of said order, and that he has executed the bond in the form and penalty required by said order, and that the same has been duly approved and filed, as by said order was also required, and that he, this plaintiff, has entered upon the duties and trusts conferred upon him by said order, and has ever since continued to perform said duties and trusts so conferred upon him as such receiver, and that the said bond or writing obligatory, form a part of the assets and property of the said The Third Avenue Savings Bank which came to the hands of this plaintiff as such receiver.

Sixth. And the plaintiff further alleges that, prior to the commencement of this action at the city of New York aforesaid, he, the said plaintiff, duly demanded the said sum of three hundred dollars, mentioned in said bond or writing obligatory, of and from the said defendant, William D. Bruns, who then and there neglected and refused to pay the same or any part thereof, and he is now justly indebted to this plaintiff, receiver as aforesaid, upon the aforesaid bond or writing obligatory, in the said sum of \$300, with interest thereon from the 28th day of January, 1872.

Wherefore the plaintiff demands judgment against the said defendant for \$300, with interest thereon from the said 28th day of January, A. D. 1872, and for the costs of this action.

M. A. DAYTON, JR.,

Attorney for Plaintiff, 21 Nassau street, N. Y.

CITY AND COUNTY OF NEW YORK, ss.:

Samuel H. Hurd, the plaintiff in this action, being duly sworn, says that the foregoing complaint is true of his own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters he believes it to be true.

SAMUEL H. HURD,

Receiver, etc.

Sworn to this 29th day of }
July, 1876. }

JAMES H. WYNNE,

Notary Public, City and County of New York.

SUPREME COURT.—CITY AND COUNTY OF NEW YORK.

No. 1.

SAMUEL H. HURD *against* GEORGE HENCKEN, Jr.

The defendant, by Scudder & Carter, his attorneys, answers the complaint of the plaintiff, and alleges:

That it is true that this defendant and the other persons named in said complaint executed the bond therein described, which contained other terms and conditions besides those alleged and to which this defendant refers when the same shall be produced on the trial of this cause — and defendant denies that there was any consideration for said bond, and alleges that the same was void and illegal, for that the same was procured to be signed by this defendant by the other parties thereto named in the complaint, who were, and some of whom for a long time had been, the trustees and officers of said Third Avenue Savings Bank, which had theretofore for many years carried on the business of a bank for savings in the city of New York under the control of said persons as its officers; that defendant, during his absence in Europe in the year 1872, without any procurement on his part, had been elected a trustee of said bank, of which election he first received notice some time after his return from Europe in October, 1872, and that he never attended any meeting of said trustees, or took any part in the affairs of said bank until the month of December, 1872; that on the twenty-eighth day of said month, when the said bond was executed, defendant was wholly ignorant of the affairs of said bank, or of its property, or the value thereof, or what and for what purpose it had liabilities, except such information as was on that day furnished by a statement then and there presented by its officers showing such assets and indebtedness, and representing that the said assets were of the probable value of \$1,440,396, but were estimated by the said officers at \$1,564,938.90, and produced an income of \$87,554, and that the liabilities of said bank, exclusive of the sum of \$99,939 for salaries, taxes and other items, was \$1,536,253.51, which statement and valuation of assets was false and fraudulent, and was intended to deceive, and did deceive defendant as to the condition of said bank and its ability to carry on its business, and defendant says that at that time the said bank was insolvent and unable to continue its business under the laws of the State of New York, which was well known to its said officers above mentioned, and that the said statement was made as an inducement to the defendant to sign the said bond, and that the said officers thereafter, and on the 1st day of January, 1873, made a report to the Superintendent of the Banking Department of the State of New York, wherein they included the said bonds as assets of the said bank at the sum of \$100,000, for which purpose the

said officers of said bank had procured the same to be executed ; and that such statement and the said use of said bond was wholly unauthorized by defendant.

And defendant has no knowledge nor information sufficient to form a belief as to the allegations of the second and fifth paragraphs of the complaint, and therefore denies the same.

Wherefore defendant demands judgment that the complaint be dismissed, with costs.

SCUDDER & CARTER,

Defendant's Attorneys.

CITY AND COUNTY OF NEW YORK, ss. :

George Hencken, Jr., being duly sworn, says that he has read the foregoing complaint, that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

GEO. HENCKEN, JR.

Sworn to before me, this 13th }
day of September, 1876. }

HENRY D. HOTCHKISS,

Notary Public, Kings County.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of the Third Avenue Savings Bank,
against WILLIAM D. BRUNS.

Action No. 2, for \$300.

The above-named defendant, in answer to the complaint in this action, respectfully shows unto this court:

First. That there was no other or further consideration for the execution by him of the bond or writing obligatory set forth in the said complaint than is stated upon the face thereof.

Second. That this defendant joined in and executed the said bond or writing obligatory set forth in the said complaint in good faith, and with an honest desire to sustain the said bank, and to enable it to continue business, and believing that the best interests of the depositors would be subserved thereby. That this defendant was induced to form such judgment and to execute said bond or writing obligatory by relying entirely upon a report upon the condition of the said bank, made at the time of the execution of the said bond, by a committee then before appointed by the board of trustees of the

said bank, to investigate and report upon its condition, which report this defendant believed to be true. That in and by the said report it appeared and was stated that under the most favorable aspect there was a deficiency of assets to meet the liabilities of said bank of something less than \$100,000, and by the said report it also appeared, and was stated, that there was due at the date thereof to the depositors of said bank the sum in said report stated, whereas, in truth and in fact, there was at that time due to the said depositors at least \$60,000 more than was stated in said report, of which fact this defendant was entirely ignorant at the time he executed said bond, and that had he known or been informed of such discrepancy he would never have executed the same. He therefore denies that there is any amount justly due and owing the said plaintiff upon the said bond or writing obligatory, whatever.

W. B. HARISON,
Attorney for Defendant.

CITY AND COUNTY OF NEW YORK, ss. :

William D. Bruns, the above-named defendant, being duly sworn, saith that the foregoing is true of his own knowledge, except 'as to those matters that are therein stated to be on information and belief, and as to those matters he believes it to be true.

W. D. BRUNS.

Sworn to before me, this 27th }
day of September, 1876. }

JAMES C. DE LA MARE,
Notary Public, N. Y. Co.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of the Third Avenue Savings Bank,
against WILLIAM B. HARISON.

Action No. 2, for \$600.

The above-named defendant, in answer to the complaint in this action, respectfully shows unto this court:

First. That there was no other or further consideration for the execution by him of the bond or writing obligatory set forth in the said complaint than is stated upon the face thereof.

Second. That this defendant joined in and executed the said bond or writing obligatory set forth in the said complaint in good faith and with an honest desire to sustain the said bank and to enable it to

continue business, and believing that the best interests of the depositors would be subserved thereby. That this defendant was induced to form such judgment and to execute such bond or writing obligatory by relying entirely upon a report upon the condition of the said bank made at the time of the execution of the said bond by a committee then before appointed by the board of trustees of the said bank to investigate and report upon its condition, which report this defendant believed to be true. That in and by the said report it appeared and was stated that, under the most favorable aspect, there was a deficiency of assets to meet the liabilities of said bank, of something less than \$100,000; and by the said report it also appeared and was stated that there was due at the date thereof to the depositors of said bank the sum in said report stated, whereas, in truth and in fact, there was at that time due to the said depositors at least \$60,000 more than was stated in said report, of which fact this defendant was entirely ignorant at the time he executed said bond, and that had he known or been informed of such discrepancy he would never have executed the same. He, therefore, denies that there is any amount justly due and owing the said plaintiff upon the said bond or writing obligatory, whatever.

W. B. HARISON, *Def't in person.*

CITY AND COUNTY OF NEW YORK, ss.:

William B. Harison, the above-named defendant, being duly sworn, saith that the foregoing answer is true of his own knowledge, except as to those matters that are therein stated to be on information and belief, and as to those matters he believes it to be true.

W. B. HARISON.

Sworn before me, this 27th day }
of September, 1876. }

JAS. C. DE LA MARE,
Notary Public, N. Y. Co.

NEW YORK SUPREME COURT.

SAMUEL H. HURD, as receiver of The Third Avenue Savings Bank,
against JAMES OWENS.

Second Suit.

The defendant, answering the complaint of the plaintiff in this action, respectfully shows unto the court:

First. That this defendant alleges that, at the time of the making of the bond mentioned in the complaint, the said The Third Avenue Savings Bank was insolvent, and the property and assets thereof were

insufficient to pay the depositors thereof the full amount that was due them, and the said fact was well known to the said bank and the trustees thereof, and to Daniel C. Howell, the person who, at said time, was Superintendent of the Banks of the State of New York, and the said bank was liable at law to have been put into immediate liquidation, and it was the legal and lawful duty of the said Superintendent of Banks to have placed the said bank into liquidation and to have the same wound up, but instead of so doing and in pursuance of an illegal and unlawful agreement, at said time entered into by and between the said bank and said Superintendent of Banks, for the purpose of evading and avoiding a compliance with the law in that behalf the said bond was made and not otherwise.

That said agreement, bond and all proceedings connected therewith, were and are in contravention of law and fatally and wholly void.

Second. And this defendant further alleges that no consideration whatever was paid or given by the said The Third Avenue Savings Bank to this defendant for the said bond or the making thereof, nor did this defendant ever receive any consideration therefor or benefit thereby, but the same was made by this defendant solely for the accommodation of the said The Third Avenue Savings Bank and not otherwise, and this defendant denies that there is any sum whatever due to plaintiff from this defendant on account thereof.

Third. This defendant alleges that all of the trustees of said The Third Avenue Savings Bank did not sign, execute, acknowledge and deliver the said alleged bond; that William Laimbeer, Severn D. Moulton, Charles B. Cornell, Philip J. Seiter and Leander Stone, who were at the said time trustees of said bank, did not sign, execute, acknowledge or deliver the said bond.

Wherefore defendant demands judgment that the complaint herein be dismissed with the costs of this action.

CULVER & WRIGHT,

Def't's Att'ys, 132 Nassau Street, New York.

CITY AND COUNTY OF NEW YORK, ss.:

James Owens, being duly sworn, says that he is the defendant in the above-entitled action; that he has read the foregoing answer and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

JAMES OWENS.

Sworn to before me, this 29th }
day of September, 1876. }

H. B. DENISON,

Notary Public, Kings Co.

Schedule A, annexed to report of S. H. Hurd, receiver of The Third Avenue Savings Bank, in the city of New York, verified January 14, 1876, filed in the office of the clerk of the city and county of New York, January 15, 1876.

Banking-house, Third avenue and Twenty-sixth street..	\$55,000 00
House and lot, Fifth avenue, above Eighty-fifth street..	34,000 00
Lot and brick stable, Twenty-sixth street.....	6,500 00
East lot, One Hundred and Fifty-ninth street, \$3,850 00	
West lot, One Hundred and Fifty ninth street, 1,130 00	
	<hr/>
	4,980 00
House and lot No. 19 East Forty-sixth street.....	1,600 00
House and lot No. 28 East Forty-seventh street.....	5,100 00
House and lot No. 21 East Forty-sixth street.....	1,550 00
House and lot No. 23 East Forty-sixth street.....	1,575 00
House and lot No. 36 East Forty-ninth street.....	7,600 00
Lot at Yonkers.....	2,250 00
House and lot No. 25 East Forty-sixth street....	1,600 00
Tarrytown property.....	15,865 66
Ten per cent on sale, 7 East Forty-sixth street.....	275 00
	<hr/>
	\$137,945 66
	<hr/>

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE THIRD AVENUE SAVINGS BANK.

To the Honorable the Supreme Court of the State of New York :

The undersigned who were appointed by an order of this court bearing date the 29th day of January, A. D. 1876, to aid and assist the receiver herein, in making an inventory and appraisal of all the property, real and leasehold, and of the securities and assets of the said The Third Avenue Savings Bank, and which have come to the hands of the said receiver do respectfully report that in pursuance to the requirements of said order, we have appraised the value of the real and leasehold property and the securities and assets of the said The Third Avenue Savings Bank which have come to the hands of the said receiver, and that the schedules hereto annexed and marked, respectively, A, B and C, contain a description of the property so appraised by us and its value.

All of which is respectfully submitted.

E. G. ROLSTON.
E. Z. LAWRENCE.
A. N. HURD,

Receiver.

SCHEDULE A.

	Appraised value.
Banking-house Twenty-sixth street and Third avenue..	\$75,000 00
Stable, Twenty-sixth street.....	12,500 00
House and lot, 36 East Forty-ninth street, \$25,000 less mortgage, \$14,000.....	11,000 00
House and lot, Fifth avenue and Eighty-fifth street.....	42,000 00
House and lot, One Hundred and Fifty-ninth street....	4,000 00
House and lot, Yonkers.....	5,000 00
80 ⁷⁰ / ₁₀₀ acres, Tarrytown, \$500 per acre.....	40,350 00
	<u>\$190,350 00</u>

SCHEDULE B.

	Gd. rent.	Mortgage	Appr'd value	Equity
House and lot, 7 E. 46th street...	\$1,200	\$8,500	\$12,000	\$3,500
House and lot, 19 E. 46th street...	1,075	8,500	12,000	3,500
House and lot, 21 E. 46th street...	1,000	8,500	12,000	3,400
House and lot, 23 E. 46th street...	1,000	8,500	12,000	3,500
House and lot, 25 E. 46th street...	1,000	8,500	12,000	3,500
House and lot, 28 E. 47th street...	1,025	8,500	15,000	6,500
			<u>\$24,000</u>	

SCHEDULE C.

BONDS AND MORTGAGES.

	Appraised value of security.	Appraised value.
St. Paul's Church, Ellenville, N. Y. (in litigation).....	\$500 00	.....
J. C. De La Mare, Mott Haven.....	5,500 00	\$4,000 00
E. Goodchild, Tenth Avenue and One Hundred and Fifty-ninth street....	10,000 00	7,000 00
I. Frenchneety, Mott Haven (Mort- \$5,000 ; m. sp., \$4,500).....	12,000 00	500 00
L. Siennis, Mott Haven (mortgage, \$5,000 ; m. sp., \$4,500).....		
J. Stephenson, New Rochelle.....	26,000 00	12,000 00
Susan M. Fisher, Englewood, N. J...	7,500 00	5,000 00
A. B. Mills, One Hundred and Fifty- eighth street and Tenth avenue (mortgage, \$16,000 ; m sp., \$12,000)	30,000 00	4,000 00
Rev. E. M. Glym, West Farms.....	10,500 00	7,300 00
O. N. Pierson, Bloomfield, N. J.....	8,000 00	5,600 00

	Appraised value of security	Appraised value.
S. Kenyon & Delaney, Pelham Bridge,	\$12,000 00	\$6,000 00
W. W. Green, Fifth avenue and Eighty- fifth street (first mortgage, \$25,000),	42,500 00	17,500 00
L. F. Haskell, Fifth avenue and Eighty- fifth street (first mortgage, \$27,500),	42,500 00	15,000 00
Jno. Mallory, Tarrytown	25,000 00	15,000 00
J. K. Felter, New Brunswick and Eliza- beth	5,000 00	3,000 00
W. C. Phelps, Elizabeth	12,000 00	7,500 00
W. C. Phelps, Jersey City	8,000 00	4,500 00
N. W. Dinmock, Elizabeth (this a mortgage of \$55,000; judgment of foreclosure entered for \$87,671.23, on about 40 acres of land of which 28 acres in the town of Linden and the balance in Elizabeth; on the latter there are taxes and assessments amounting to about \$15,000, towards which the bank has a deposit of \$25,000 .....	.....	45,000 00
Empire Laundry, Fifty-fourth street...	29,000 00	20,000 00

STOCKS.

7,000 00 Tennessee bonds	42 per cent	2,940 00
100,000 00 Louisiana bonds	33 per cent	33,000 00
8,500 00 Alabama bonds (1880)	28 per cent	13,580 00
20,000 00 Virginia Cons'd (1886)	30 per cent	6,000 00
1,800 00 Virginia Consolidated	45 per cent	810 00
66 67 Fractional Certificates	45 per cent	30 00
933 33 Funded Certificates	9 per cent	83 99
108 00 Interest Certificates	12 per cent	12 96
Furniture and fixtures .....	.....	1,000 00
Trustees' bond, due in June (knowing no reason why this bond should not be good and collectible, we have extended it at its face value .....	.....	115,000 00
		<u>\$351,856 95</u>

STATE OF NEW YORK. }
CITY AND COUNTY OF ALBANY. } ss.:
Clerk's Office,

I, Wm. E. Haswell, clerk of the said city and county, and also
clerk of the Supreme Court and county courts, being courts of record

held therein, do hereby certify that I have compared the annexed copy appraisement with the original thereof, filed in this office on the 25th day of April, 1876, and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof I have hereunto set my hand and affixed my official seal this 26th day of July, 1877.

WM. E. HASWELL,
Clerk.

Mr. TRACY — I now propose to take up the People's Savings Bank.

HENRY L. LAMB being recalled on behalf of the State further testified :

Examined by Mr. TRACY :

Q. Mr. Lamb, will you produce the report of the People's Savings Bank of July 1, 1873 ; received some time in August, 1873 ? A. [Witness produces paper.]

Q. This is the document ? A. Yes, sir.

Q. Are these the schedules that came with it ? A. Yes, sir.

Q. Schedule A and so on ? A. They are.

Q. Did this letter come with them that I show you ? A. I cannot tell whether it came with the report or came outside of it ; it is of the same date.

Q. Will you state what time that arrived at the department ? A. The filing will show.

Q. I do not see any filing ? A. "Received August 16, 1873."

Mr. TRACY—I will read over this report.

Mr. McGUIRE—I desire to make the same objection to the reception of this report as to the others, on the ground that there is no charge either in the message of the governor or the accompanying documents as to any dereliction of duty upon the part of the superintendent arising from the reception of this report.

The PRESIDENT—The chair supposes the object of the testimony to be the same as in the other cases.

Mr. TRACY—It is offered with the same view ; yes sir ; to show insolvency.

The PRESIDENT—The chair is of the opinion that it is competent ; if any Senator desires to have the question submitted to the Senate the chair will do so.

Mr. McGUIRE—Mr. President, I hardly understand upon what grounds the counsel claim the admissibility of this proof.

The PRESIDENT—The counsel claims it to be admissible for the purpose of showing the condition of the bank and the knowledge of the Superintendent in relation thereto.

Mr. McGUIRE — Mr. President, under which charge do you claim it is admissible ?

Mr. TRACY — It is under the general charges in respect to this bank, all contained in the communications from the Governor, and in the matter transmitted, dealing with the insolvency of the institution.

Report of the People's Savings Bank, an incorporated institution for savings, of its condition on the 1st day of July, 1873, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed	\$119,000 00
2. Stock investments, as per Schedule B, hereto annexed,	91,810 00
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	4,800 00
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate, standing on books, at \$ .....	; market value, \$
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	23,019 55
8. Cash on hand not deposited in bank.....	15,381 64
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	79,632 67
	<hr/> <hr/>
	\$333,643 86

LIABILITIES.

1. Amount due depositors.....	\$313,471 59
Principal	\$306,236 26
Interest credited for the 1st of July, 1873.	7,235 33
2. Other liabilities, viz. :	
3. Excess of assets over liabilities.....	

STATE OF NEW YORK, {
COUNTY OF NEW YORK. } ss.:

Fred'k Olmstead, president, and Charles T. Rodgers, secretary, of the People's Savings Bank, an incorporate institution for savings, located and doing business at No. 301 Third avenue, New York, being duly and severally sworn, each for himself saith that the fore-

going report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the 1st day of July, one thousand eight hundred and seventy-three, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

FREDK. OLMSTEAD,
President.

CHARLES T. RODGERS,
Secretary.

Severally subscribed and sworn by }
both deponents, the 14th day of }
August, 1873, before me.

WM. B. STUYVESANT,
Notary Public (No. 176), New York Co.

SCHEDULE A.

No.	County where located.	In what city, village or town.	Principal unpaid.	Est'd value of mortgaged premises.	Rate of interest.
....	New York.....	New York.....	\$2,500	\$8,000	Seven.
....	New York.....	New York.....	9,000	18,000	Seven.
....	Westchester.....	Morrisania.....	2,000	4,500	Seven.
....	New York.....	New York.....	4,000	9,000	Seven.
....	New York.....	New York.....	3,000	7,000	Seven.
....	New York.....	New York.....	15,000	35,000	Seven.
....	New York.....	New York.....	6,000	15,000	Seven.
....	New York.....	New York.....	7,500	16,000	Seven.
....	New York.....	New York.....	12,000	30,000	Seven.
....	New York.....	New York.....	8,000	18,000	Seven.
....	New York.....	New York.....	25,000	70,000	Seven.
....	New York.....	New York.....	6,000	13,000	Seven.
....	New York.....	New York.....	5,000	12,000	Seven.
....	New York.....	New York.....	2,500	6,000	Seven.
....	Westchester.....	West Farms.....	2,000	5,000	Seven.
....	Kings.....	Brooklyn.....	2,500	6,000	Seven.
....	Kings.....	Brooklyn.....	7,000	18,000	Seven.
			\$119,000	\$286,500	

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz. :

1. United Stocks and interest bearing treasury notes or certificates.
2. New York State stocks.
3. Stocks of other States.
4. Stocks or bonds of cities in this State.
5. Stocks or bonds of counties.
6. Stocks or bonds of towns.
7. Stocks or bonds of villages.
8. Any other stock or bonds.

Name of Stock.	Rate of interest.	Cost.	Par value.	Estimated market value.
Tennessee, State.....	■	\$660 00	\$1,000 00	\$790 00
Missouri, State.....	6	19,000 00	20,000 00	19,100 00
North Carolina, State.....	6	46,812 50	70,000 00	.....
Brooklyn, city.....	7	20,437 50	20,000 00	20,437 50
Yonkers, town.....	7	4,900 00	5,000 00	4,900 00
		\$91,810 00	\$116,000 00	

SCHDEULE C.

PUBLIC STOCKS UPON WHICH MONEY HAS BEEN LOANED.

Name of Stock.	Par value.	Am't loaned thereon.	At what rate of interest.
United States bonds.....	\$4,900 00	\$4,800 00	Seven.

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company	Location.	Amount on deposit.	At what rate of interest.
Second National Bank.....	5th av. and 23d st.	\$2,499 87	None.
Eighth National Bank.....		400 00	None.
Manufacturers and Merchants' Bank.....	561 Broadway....	98 39	Four.
Bank of Metropolis.....	31 Union Square.	8,500 00	Four.
Bull's Head Bank.....	3d av and 25th st.	11,521 29	Four.
		\$23,019 55	

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING.*

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....
New York State stocks.....
Stocks of other States.....	\$230 00
Bonds of counties, cities and towns of this State.....
Other stocks and bonds.....
Real estate.....
Totals.....
Difference.....

* If cost exceeds market value the difference should be entered under the head, "other liabilities," in the report.

LOANS, DEPOSITS, INVESTMENTS OR ASSETS OF EVERY DESCRIPTION,
NOT HERETOFORE ENUMERATED, VIZ. : *

Accrued interest (Ind. Inst. on bond of trustees).....	\$8,585 69
Revenue and postage stamps.....	174 43
Furniture and fixtures.....	5,872 55
Lease of premises, Third avenue and Twenty-third st...	10,000 00
Bonds of trustees deposited with the Bank Department,	55,000 00
	<hr/>
	\$79,632 67
	<hr/>

PEOPLE'S SAVINGS BANK,
THIRD AVENUE, COR. TWENTY-THIRD STREET, }
NEW YORK, August 15, 1873.

Superintendent of Bank Department :

DEAR SIR—Our president did not come into town until the middle of this week, and consequently I did not get the report signed and sworn to in time to send sooner.

I have filled out every thing except the price of the North Carolina bonds which I leave for you to estimate as you see fit, and strike the balance accordingly.

Yours respectfully,

CHARLES T. ROGERS,

Secretary.

Mr. Lamb will you now produce the report of Reid and Smith, examination of the same, in September, 1873 ?

[Paper produced.]

Q. Mr. Lamb, after this report came in, was that under your consideration and examination? A. Some conversation about the subject.

Q. What particular part of it? A. Well, there were two points about it ; one was that the report came in exceedingly late ; another point was that the report was not going on.

Q. State what was said and done between you and Mr. Ellis about it? A. Well, in the department, there was some conversation about this report for July 1, 1873 ; the report was very tardy in coming into the office, and when it came in finally, it was not complete ; the value of North Carolina stocks not being represented at all by the officers of the bank, according to the provisions of the law, and during the month Mr. Rogers, the secretary of the bank, who was going into the country some where, came into the office and we had some conversation with him in regard to the bank, and its condition.

* As interest credited to depositors is stated among the liabilities, it will, of course be just to include in this schedule the interest due, though unpaid, on investments.

Q. Was any thing done about furnishing the report correctly? A. Not that I recollect.

Q. Will you state what passed between you and Mr. Ellis during that period about this bank? A. I don't recollect that we had any particular conversation about that bank; we did have some talk about Mr. Rogers, the secretary, and his visit that day.

Q. What passed between you and Mr. Ellis? A. I told Mr. Ellis that I thought Mr. Rogers was an inefficient or a dishonest man, and I did not think that he could successfully manage a bank; that impression was formed from our talk with him the afternoon he was in the office.

Q. I would like to have you give pretty fully what was said to Mr. Ellis about this? A. I don't recollect that I said any thing more; I expressed the opinion that I did not have much confidence in the management of the bank.

Q. What was the next thing done afterwards? A. I think Mr. Ellis entertained about the same view that I did in regard to its management, and he ordered an examination of the bank very soon after the reception of this report.

Q. Is that examination in your hands now? A. Yes, sir.

Q. By whom was it made? It was filed: special examination of the People's Savings Bank, made by G. W. Reid and Isaac Smith, September, 1873.

Mr. TRACY—I will read this in evidence:

BANK DEPARTMENT, }
ALBANY, *September 3, 1873.* }

Pursuant to the authority conferred, and the duty imposed upon the Superintendent of the Banking Department by chapter 693 of the Laws of 1871, I do hereby appoint George W. Reed and Isaac Smith to examine into the condition, working and affairs generally of the People's Savings Bank, New York, and report thereon to me in detail as soon as practicable.

Given under my hand and official seal at Albany the day and year first above written.

D. C. ELLIS,
Superintendent.

INCOME of the People's Savings Bank of New York.

INVESTMENTS.	Rate of interest.	Amount at par.	Revenue.	Totals.
Bonds and mortgages.....	7	\$119,000 00.	.....
Call loans.....	7	3,700 00	.....
Brooklyn bonds.....	7	20,000 00	.....
Yonkers bonds.....	7	5,000 00	.....	\$9,265 40
Missouri bonds.....	6	\$147,700 00	\$10,339 00	
Cash in bank.....	4	20,000 00	1,200 00	
		30,000 00	1,200 00	\$12,739 00
Annual deficiency.....				9,936 00
				<u>\$22,375 00</u>
CHARGES.				
Interest to depositors.....				
Rents.....		14,500 00	.....
Salaries.....		3,000 00	.....
Internal revenue tax.....		3,375 00	.....
All other charges.....		400 00	.....
		1,100 00	.....	\$22,375 00

ASSETS of the *People's Savings Bank, New York, September 4, 1873.*

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Eighteen bonds and mortgages.....	7	.....	....	.....	\$119,000 00
Call loans on government, at par.....	....	.....	....	.....	3,700 00
Brooklyn registered, 1900.....	7	\$10,000 00	103	\$10,300 00	
Brooklyn Wallabout, 1882.....	7	3,000 00	103	3,090 00	
Brooklyn, Kent avenue, 1885.....	7	7,000 00	103	7,210 00	
Yonkers, town.....	7	5,000 00	100	5,000 00	
Tennessee, no interest paid since 1868.....	6	1,000 00	82	820 00	
Missouri, various.....	6	20,000 00	91½	18,300 00	
North Carolina funded debt, 1866.....	6	43,000 00	17	7,310 00	
North Carolina, Charleston and Rutherford railroad, received 1861 and 1866.....	6	5,000 00	15½	775 00	
North Western North Carolina railroad, 1866, 1867.....	6	7,000 00	15½	1,085 00	
North Carolina and Chatham railroad, 1868.....	6	15,000 00	15½	2,325 00	56,215 00
Lease bank room north-east corner Third avenue and Twenty-third street, 25x50.....	....	.....	....	.....	10,000 00
Safe and fixtures.....	....	.....	....	.....	4,000 00
Bond of trustees.....	....	.....	....	.....	55,000 00
Accrued interest.....	....	.....	....	.....	2,913 00
Revenue and postage stamps.....	....	.....	....	.....	170 00
Cash in safe.....	....	.....	....	.....	3,689 25
Cash in Bull's Head Bank.....	....	.....	....	.....	11,058 76
Cash in Manufacturers and Merchants' Bank.....	....	.....	....	.....	6,098 39
Cash in Bank of Metropolis.....	....	.....	....	.....	10,084 29

Cash in Second National Bank .....	....	....	....	....	4,362 33
Cash in Eighth National Bank .....	....	....	....	....	400 00
Deficiency of assets .....	....	....	....	....	\$286,691 02
Due depositors.....	....	....	....	....	28,198 50
Accrued interest .....	....	....	....	312,389 52	\$314,889 52
	....	....	....	2,500 00	314,889 52

(Statement made by Geo. W. Reid.)

STATEMENT of condition of the *People's Savings Bank, New York, on the morning of September 5, 1873.*

832

	Interest.		Rate.	Market Value.	Totals.
RESOURCES.					
Bonds and mortgages.....	....	\$119,000 00	....	.....	\$121,669 35
Accrued interest.....	7	2,669 35	....	.....
STOCK INVESTMENTS.					
Missouri State.....	6	.....	91½	\$18,300 00	18,300 00
NORTH CAROLINA.					
Chatham Railroad Co.....	6	15,000 00	15½	\$2,325 00	11,495 00
Wilmington, C. and Ruthford Railroad	6	5,000 00	15½	775 00	
West. Railroad Co	6	7,000 00	15½	1,085 00	
Funded debt '66.....	6	43,000 00	17	7,310 00	
Tennessee	6	1,000 00	82	\$820 00	820 00
Brooklyn City.....	7	20,000 00	103	20,600 00	
Town Yonkers.....	7	5,000 00	....	.....	20,600 00
Accrued interest.....	....	107 92	....	.....
Call loans, call U. S. bonds.....	7	\$3,700 00	....	.....	5,107 92
Accrued interest .....	....	104 75	....	.....
CASH IN BANK.					
Bull's Head Bank	4	\$11,058 76	....	.....	3,804 75
Manufacturers and Merchants'	4	6,098 39	....	.....

Bank of the Metropolis	4	10,084 29	....	.....
Second National Bank.....	None	4,362 33	....	.....	32,003 77
Eighth National Bank.....	None	400 00	....	.....	3,689 25
Cash on hand.....	....	.....	....	.....
Furniture and fixtures, allowed as of December, 1871.....	....	\$5,500 00	....	.....
Revenue and postage stamps.....	....	170 00	....	.....
Bond of trustees .....	....	55,000 00	....	.....	60,670 00
Loans on pass-books.....	....	.....	....	.....	704 10
Deficiency.....	....	.....	....	.....	36,075 38
					\$314,939 52
LIABILITIES.					
Amount due depositors .....	....	.....	....	312,389 52	
Accrued interest, a liability in case the business is continued .....	....	.....	....	2,550 00	
					\$314,939 52
					\$314,939 52

STATEMENT made by Isaac Smith.

EXPENSES.

Estimated on the basis of expenses for the year ended July 1, 1873.

Salaries:

Secretary	\$1,500 00	
First clerk	1,250 00	
Second clerk	625 00	
	<hr/>	\$3,375 00
Rent		3,000 00
Taxes (on deposits).....		400 00
Printing and stationery		450 00
Advertising		200 00
Light and Fuel.....		230 00
Incidentals.....		450 00
		<hr/>
		\$8,105 00
		<hr/>

Annual Income.

Interest on bonds and mortgages, 7 per cent.....	\$119,000 00	\$8,330 00
Interest on Missouri stocks, 6 per cent....	20,000 00	1,200 00
Interest on Tennessee stocks, 6 per cent..	1,000 00	60 00
Interest on Brooklyn city stocks, 7 per cent.....	20,000 00	1,400 00
Interest on Town Yonkers bonds, 7 per cent.....	5,000 00	350 00
Interest on call loans, 7 per cent	3,700 00	259 00
Interest on cash in banks, 4 per cent	31,603 00	1,264 00
		<hr/>
		\$12,863 00

Annual Expenditures.

Interest to depositors average .04.65 per cent.....	\$14,500 00	
Expenses	8,105 00	
	<hr/>	22,605 00
Deficiency in income.....		\$9,742 00
		<hr/>

Estimated amount of increase in deposits required to balance income and expenditures..... \$65,000 00

• • This estimate is made upon the basis of an average rate of income of $6\frac{3}{4}$ per cent and 5 per cent on deposits without an allowance for increase in expenses.....

Average monthly increase in deposits from July 1, 1873, to September 1, 1873.....	\$2,300 00
--	------------

Cost.

Assets on which interest is paid.

Bonds and mortgages, 7 per cent.....	\$119,000 00
Missouri State bonds, 6 per cent.....	19,000 00
Tennessee State bonds, 6 per cent.....	660 00
Brooklyn city bonds, 7 per cent.....	20,437 50
Town Yonkers bonds, 7 per cent.....	4,900 00
Call loans, 7 per cent.....	3,700 00
Cash in banks, 4 per cent.....	27,241 40
	<hr/> \$194,938 90 <hr/>

“Average interest received $6\frac{1}{4}$ per cent.”

Assets not drawing interest.

North Carolina stocks, 6 per cent, <i>cost</i>	\$46,812 50
Cash in bank.....	4,762 33
Cash on hand.....	3,689 25
Furniture and fixings.....	5,500 00
Revenue and postage stamps.	170 00
Bonds of trustees.....	55,000 00
	<hr/> \$115,934 08 <hr/>

“Average interest on assets $4\frac{1}{2}$ per cent.”

None of the call loans (\$3,700) are represented by notes. One loan to the amount of \$3,000 is represented by same amount of U. S. Reg. stock as collateral, assigned in *blank* by — attached,* by C. T. Rodgers, Ex'tr. Loan to him.

By Mr. CHAPMAN:

Q. When was this report filed in the department? A. The date of its filing is not on it.

Q. September third is the date of the commission? A. I would correct it and give the date of the report if I could find it.

Mr. TRACY — It was the twenty-fifth of September, I understand [witness reads statement of the condition of the People's Savings Bank, September 4, 1873]; that is the only report, and the other is indorsed: “Statement of the condition of the People's Savings Bank of New York on the morning of September fifth.”

By Mr. CHAPMAN :

Q. Whose is the September fourth? A. Mr. Reid's.

Q. Smith's was September fifth? A. Yes, sir.

Q. On the same morning, I suppose? A. I suppose they made the examination the same day, really.

Q. When this report came in, did you examine it — this examination? A. No, sir.

Q. Did you make any calculations about it? A. No, sir.

SHELDON W. SWANEY, a witness on behalf of the State, being duly sworn, testified as follows :

Examined by Mr. TRACY :

Q. What is your business? A. Managing clerk in the office of the Attorney-General.

Q. At Albany? A. Yes, sir.

Q. Will you produce from the Attorney-General's office the papers in the proceedings under the title of "The People *against* The People's Savings Bank," in 1873? A. I find on file the following papers in the office [papers produced].

Mr. TRACY — The paper relates to the suit containing the letters of the superintendent and some affidavits in support of the complaint; have you the register of the Attorney-General in this case? A. I have.

Q. Read the entry? A. [Witness reads:]

"SUPREME COURT — OF THE CITY OF ALBANY.

THE PEOPLE *against* THE PEOPLE'S SAVINGS BANK OF THE CITY OF NEW YORK.

September 2, 1873.

Summons and complaint served on Olmstead, president of the bank by Lynch, deputy. Fees, two dollars. October twenty-fourth, received by mail copy."

Then there is marked in lead pencil at the bottom "settled."

Q. That is the last of it in that book? A. Yes, sir.

Q. What date is that pencil entry put in upon? A. No, date.

Q. What is the last date before that? A. October twenty-fourth, is the last date before that.

Q. Have you the answer here? A. Yes, sir.

By Mr. CHAPMAN :

Q. Whose handwriting is that word "settled" in? A. I do not know.

Q. It is not Mr. Ellis'? A. No, sir; I do not know as it is; I cannot say whose it is.

Mr. TRACY — I will read the complaint and answer in evidence. The answer is verified by Fred Olmstead, and I might say it is a general denial of the whole of it, and sworn to by Mr. Olmstead, I will read that in evidence :

SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* PEOPLE'S SAVINGS
BANK OF THE CITY OF NEW YORK.

Certificate of service of summons and complaint.

CITY AND COUNTY OF NEW YORK, ss. :

I certify that on the 22d day of September, 1873, at the city and county of New York, I served the summons, of which the annexed is the original, together with a copy of the complaint hereto annexed, on Frederick Olmstead, president of People's Savings Bank of the City of New York, the defendant in this cause, by delivering said summons and copy of complaint to, and leaving the same with Frederick Olmstead, president of said defendant, personally.

Fees, two dollars.

M. S. BRENNAN,
Sheriff.

LYNCH, *Deputy.*

SUPREME COURT — ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* PEOPLE'S SAVINGS
BANK OF THE CITY OF NEW YORK.

To the defendant :

You will take notice that on the annexed papers this court will be moved at a Special Term thereof, to be held at the City Hall, in the city of Albany, N. Y., on the 30th day of September, 1873, at the opening of the court on that day, or as soon thereafter as counsel can be heard, that People's Savings Bank of the city of New York, the defendant above named, its officers and agents be distrained and enjoined from exercising any of its corporate rights, franchises or privileges and from collecting or receiving any debts or demands, and from paying out or in any manner transferring or delivering to any person any of the moneys, property or effects of said corporation, and that a receiver of the property and effects of said corporation be appointed pursuant to the provisions of the Revised Statutes, with all

powers and authority conferred upon receiver in such cases, and that the plaintiffs have such other or further relief in the premises as may be proper, with cost of this motion.

Yours,

FRANCIS C. BARLOW,

Attorney-General for People in Albany, N. Y.

STATE OF NEW YORK — SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* PEOPLE'S SAVINGS
BANK OF THE CITY OF NEW YORK.

Summons for Relief.

To the defendant :

SIR — You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and serve a copy of you answer on me, at my office in the State Hall, in the city of Albany, within twenty days after the service hereof, exclusive of the day of such service ; and if you fail to answer the complaint as aforesaid, the plaintiffs will apply to the court for the relief demanded in the complaint.

FRANCIS C. BARLOW,

Attorney-General, for Plaintiffs.

Dated *September* 13, 1873.

SUPREME COURT — ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* PEOPLE'S SAVINGS
BANK OF THE CITY OF NEW YORK.

The above-named plaintiffs, by Francis C. Barlow, their Attorney-General, complain of the defendant, and allege that the defendant, as a body corporate duly created and organized under an act of the Legislature of the State of New York, entitled "An act to incorporate the People's Savings Bank of the City of New York," passed May 7, 1863, and an act entitled "An act to incorporate the People's Savings Bank of the City of New York," passed April 19, 1867, and said corporation has for several years last passed conducted and carried on in the city of New York the business of a savings bank.

That the said defendant is now and has been for more than one year last past, insolvent and unable to pay its debts and the liabilities of said corporation arising from the deposits of money made therein,

have been and are very much greater than, and far in excess of, the value of, all the assets of said corporation.

That in pursuance of chapter 693 of the Laws of New York, of the year 1871, the Superintendent of the Banking Department of the State of New York has caused said corporation to be visited and examined by two competent persons appointed by him for that purpose, and said superintendent has sent a communication to the Attorney-General of the State of New York, of which a copy is hereto annexed and made part of this complaint.

Wherefore these plaintiffs demand judgment; that said corporation, the defendant, be dissolved; that said corporation and its officers and agents, be restrained and enjoined from exercising any of its corporate rights, privileges and franchises, and from collecting or receiving any debts or demands, and from paying out or in any manner transferring or delivering to any person any of the moneys, property or effects of said corporation; that a receiver of the property and effects of said corporation may be appointed pursuant to the provisions of the Revised Statutes, with all the powers and authority conferred upon receivers in such cases.

That the plaintiffs have their costs of this action.

FRANCIS C. BARLOW,
Attorney-General, Plaintiffs' Attorney.

STATE OF NEW YORK, }
ALBANY CITY AND COUNTY, } ss. :

De Witt C. Ellis, of said city, being duly sworn, says that he is Superintendent of the Banking Department of the State of New York; that the foregoing complaint is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

D. C. ELLIS.

Sworn to before me, this 13th }
day of September, 1873. }

ISAAC SMITH,
Notary Public, Albany, N. Y.

STATE OF NEW YORK :

BANK DEPARTMENT, }
ALBANY, September, 11, 1873. }

HON. FRANCIS C. BARLOW, *Attorney-General, State New York :*

SIR—In pursuance of chapter 693, section 3, Laws of 1871, I hereby report to you the condition of the People's Savings Bank of the city of New York, as shown by a special examination of said bank, made

by Geo. W. Reid and Isaac Smith, September 5, 1873, under authority of this department.

STATEMENT.

Amount due depositors.....	\$314,939 52
Assets	223,864 14
Deficiency.....	<u>\$91,075 38</u>

Of this deficiency the Superintendent of the Bank Department holds in trust the personal bond of the trustees for \$55,000 to make good any deficiency due to depositors on the final closing up of the affairs of the bank.

Since said bond was executed in 1871 to cover all then existing deficiencies the bank has continued in business, and shows by this examination an additional deficiency of \$36,075.38.

It is the opinion of the Superintendent of the Banking Department that it is unsafe and inexpedient for this bank to continue to transact business, and I would recommend that the necessary steps be taken to close up its affairs.

I am sir, your obedient servant.

D. C. ELLIS,
Superintendent.

STATE OF NEW YORK, }
ALBANY CITY AND COUNTY, } ss.:

George W. Reid and Isaac Smith, being each duly and severally sworn, each for himself, deposes and says, that he was duly appointed by Hon. De Witt C. Ellis, who is the Superintendent of the Banking Department of the State of New York, to visit and examine into the affairs and financial condition of People's Savings Bank of the city of New York, that he made such examination on or about September, 5, 1873, and that the statement made in the annexed copy of a letter of the said superintendent is a true statement of the financial condition of said corporation.

ISAAC SMITH.
GEO. W. REID.

Sworn to before me by Isaac Smith, }
this 13th day of September, 1873. }

J. H. VROOMAN,
Commissioner of Deeds, Albany, N. Y.

Sworn to before me by Geo. W. Reid, }
this 13th day of September, 1873. }

J. H. VROOMAN,
Commissioner of Deeds, Albany, N. Y.

SUPREME COURT — COUNTY OF ALBANY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE PEOPLE'S
SAVINGS BANK OF THE CITY OF NEW YORK.

The answer of the defendants to the complaint herein :

The said defendants, answering, deny each and every allegation in said complaint contained, except they admit their incorporation as therein contained.

C. BRAINERD,

Defendants' Attorney, 48 Pine street, New York City.

CITY AND COUNTY OF NEW YORK, ss. :

Frederick Olmstead, being duly sworn, says that he is the president of the defendants herein ; that the above answer is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

FREDERICK OLMSTEAD.

Sworn before me, this 23d day }
of October, 1873. }

JAS. H. DONALDSON,

Commissioner of Deeds.

Q. Is there any other paper in there ? A. There is a stipulation.

Q. Read it ? A. [Witness reads as follows:] “ Stipulation by John Henry Hall, attorney for the bank, and Marcus T. Hun, Deputy Attorney-General. It is consented that the within motion be adjourned to the Special Term held at Albany the last Tuesday of October, 1873. This motion to be heard before then on three days' notice from the Attorney-General, or on five days' notice by mail, from John Henry Hall, 240 Broadway, New York.

(Signed.)

JOHN HENRY HALL,

Attorney for the Bank.

MARCUS T. HUN,

Deputy Attorney-General.”

Q. Is there any thing else there ? A. The original letter of Mr. Ellis.

Q. Which is copied in the complaint ? A. Yes, sir.

Mr. McGUIRE — I would like to have it distinctly appear upon the minutes that that answer is verified by the president of the bank.

HENRY L. LAMB, being recalled on behalf of the State, further testified :

Examined by Mr. TRACY:

Q. Was there any visit from officials or trustees of this bank to the superintendent? A. I think there was.

Q. Can you tell when they came? A. No, sir; I was not present at any interviews when the officers visited the department on this subject, nor could I tell the dates when the gentlemen came.

Q. Do you know any thing about the direction to discontinue the proceedings? A. No, sir.

Q. Or the determination to discontinue them? A. No, sir; I do not.

Q. What gentlemen came up about this matter? A. I cannot tell, positively.

Mr. McGUIRE — Mr. President, we object to the line of proof about the discontinuance of the case, upon the ground that by the statute it is whenever the superintendent passes the bank over to the Attorney-General, he has no jurisdiction or control over it whatever; if the case is settled, it is settled by the Attorney-General and not by the superintendent; he has no more control over it than any private citizen of the State when it passes into the Attorney-General's hands.

Mr. TRACY — My question is, what gentlemen came up there? A. I say I cannot tell.

Mr. TRACY — I desire to show Mr. Ellis' prosecution about the banking is connected with it, as far as I can, whether he ordered the discontinuance of the suit or not, whether he could or not; it is his conduct in respect of the bank that I am pursuing; the question is now, who were the persons that came up to the bank?

The PRESIDENT — Then you propose to confine your examination to Mr. Ellis' action in reference to this matter? A. Yes sir, his utterances, correspondence and conduct.

Mr. McGUIRE — I object; whatever he did after the bank was handed over to the Attorney-General, was as a private citizen, and not as an officer; that it passed out of his hands entirely.

The PRESIDENT — The chair is of the opinion that it is competent for the prosecution to prove whatever Mr. Ellis did touching this institution; you will proceed, unless some Senator desires to have the question submitted to the Senate.

By Mr. TRACY:

Q. What gentleman came up from the bank to see Mr. Ellis? A. I cannot say positively who did come to Albany; I have already stated I was never present at any interview.

Q. Is there in the department any correspondence with the bank along in that period? A. Yes sir.

Q. Will you produce it? A. Here is a package of letters.

Q. Those are letters received at the department? A. I believe these are all letters addressed by the officer of the bank to the department.

Q. Have you copies of letter or letters addressed to the bank from the department? A. Yes, sir.

Mr. MCGUIRE — It is under our general objection.

Mr. TRACY — It contains two schedules — A. and B.

“NEW YORK, *October 1, 1873.*

“*Supt. Bank Dept. :*

“DEAR SIR — Immediately on the return of our committee from Albany we set ourselves about carrying out the understanding there arrived at. After two meetings of our board we have concluded to make one grand effort to raise the round sum of *one hundred thousand dollars*, in any kind of bona fide interest-paying assets which may be approved by yourself. We may at last be under the necessity of putting in a personal bond for part of the amount, but hope not. It will not be necessary if our people act as well as they talk. Our object in making a part of this amount is that we may at once remove the old bond, make up the present deficit, and take the North Carolina bonds off the hands and off the books of the bank, the subscribers to this fund then owning them and holding them as security as far as they go against the amount they have subscribed.

“More than one-half the amount needed (\$100,000) is already promised and subscribed for in writing, and the prospect is good. The man in our board who, both by his pecuniary ability and his responsibility for the original organization of the bank, ought to do more than any other man in the concern, has not yet decided how much he will stand, but a committee are to see him to-morrow morning and insist on his doing his duty. Should he come down as he ought the thing is virtually settled, and the remainder of the amount can be secured without much doubt. We are to have another meeting of our board on Friday afternoon at 4½ o'clock, and shall continue to meet every few days until this matter is settled.

“Yours respectfully.

“CHAS. T. RODGERS,

“*Secretary.*”

Witness read the following :

“NEW YORK, *October 1, 1873.*

“*Superintendent Bank Department :*

“DEAR SIR — Will you be good enough to send me a list of the signers of the present bond and the amount for which each is down.

We intend having the new apportionment, if possible made on a more equitable basis.

“Yours, etc.

“C. F. RODGERS,
“*Secretary.*”

Witness also read the following:

“ALBANY N. Y., *October 3, 1873.*

“CHARLES D. RODGERS, *Secretary New York:*

“I send you herewith the list which you requested in your letter of October first.

“HENRY L. LAMB,
“*Deputy.*”

Q. What is the next date in your copy-book? A. October 6, 1873; it reads as follows:

“ALBANY, N. Y., *October 6, 1873.*

“CHARLES D. RODGERS, *Secretary, New York:*

“Yours of the fourth instant received. It would be of no use for me to meet with your trustees until such time as they are prepared to make some proposition as suggested by your committee when here. Your president and attorney understand my proposition and they left me with the understanding that they were to notify me when they would like to have me meet with the trustees. It would only involve a needless expense for me to go down before they are ready to see me.

“DE WITT C. ELLIS,
“*Superintendent Bank Department.*”

Witness also read the following:

“NEW YORK, *October 23, 1873.*

“MR. D. C. ELLIS, *Superintendent, etc.:*

“DEAR SIR. — Since seeing you I learn that our answer in the suit was to be filed this day, and as a matter of form our attorney has sent an answer by mail, containing a general denial, etc. This is a matter of legal form and technicality of which I know nothing, supposing, as I presume you did, that when the suit was put over until the last Tuesday in the present month, we had nothing to do in the meantime but to go ahead at making up the amount required. The papers in the suit set forth that the deficit is \$91,000, including the present bond, but I understood you to agree that if we could make it up, you would settle on the basis of Mr. Reid's calculation, which was about \$8,000 more in our favor. We have subscribed and

promised \$85,000, of which over \$50,000 is now in, and I think there is no doubt about any of the others. I will write you again to-morrow evening, or on Saturday morning, and Mr. Olmstead will see you in Albany on Monday and report exactly how the matter then stands. We could have had much more of it in by this time, but we have been laboring to get some parties to give other securities instead of their personal bonds, as they would like to.

"Yours respectfully.

"CHAS. F. RODGERS,
Secretary."

Q. Read the letter from the department? A. [Witness reads:]

"ALBANY, N. Y., *November, 20, 1873.*

"FREDERICK OLMSTEAD, *President, New York :*

"I desire an early adjustment of the affairs of the People's Savings Bank.

"I have been reluctant to put the institution into liquidation while there was a reasonable prospect of a satisfactory settlement and extrication from its present embarrassment. I have therefore extended to the trustees every indulgence consistent with the performance of my duty. I am constrained to now require the trustees to come to definite conclusions, and to apprise me, without delay, what their conclusions are. Ample time has been granted to them by me for that purpose. If their interests do not enforce the necessity of prompt action, so as to put the bank in a sound condition, I will proceed to close it before it becomes more deeply involved.

"DE WITT C. ELLIS,
"Superintendent Bank Department."

Witness also read the following :

"ALBANY, *December 10, 1873.*

"F. OLMSTEAD, *President, New York :*

"Since my last communication to you of November twentieth, in regard to the affairs of your bank, I have heard nothing in reply.

"I must ask you for a final disposition of the matter at once, so that I may be able to prepare my annual report. Will you report the condition of things, and name a day next week when I can meet with you to make an examination with a view to a final settlement.

"DE WITT C. ELLIS,
"Superintendent Bank Department."

Q. Read the next date? A. [Witness reads:]

"ALBANY, *November, 5, 1875.*

"CHARLES D. RODGERS, *Secretary, New York:*

"We are waiting for the report from your bank.

"Such delays in making your reports are wholly inexcusable and unwarrantable, besides causing us much trouble in preparing our annual report.

"Will you forward at once?

"Yours, etc.

"DE WITT C. ELLIS,

"*Superintendent Bank Department.*"

Q. Read the next date? [Witness reads:]

"ALBANY, N. Y., *Nov. 11, 1875.*

"HON. DANIEL PRATT, *Attorney-General:*

"In pursuance of section 44, chap. 371, Laws of 1875, I hereby respectfully call your attention to the condition of the People's Savings Bank in the city of New York.

"From the facts officially furnished to me by George W. Reid, and an examiner duly appointed by me to examine into the condition of said savings bank, I find that on the 10th day of November, 1875, the total liabilities of the bank were \$200,131.79, and the total assets were \$155,351.83; leaving a deficiency of \$42,779 96.

"I deem it entirely unsafe for this bank longer to continue its business, and I therefore recommend that you take the necessary legal steps to close up its affairs.

"DE WITT C. ELLIS,

"*Superintendent Bank Department.*"

Q. Produce the report of the bank made January 1, 1874? [Witness here produces the bank report made January 1, 1874.]

Mr. Tracy read it in evidence, as follows:

SCHEDULE A. — BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
5....	New York	New York	\$9,000 00	\$18,000 00	7 per cent.
7....	Westchester	Morrisania	2,000 00	4,500 00	7 per cent.
10....	New York	New York	4,000 00	9,000 00	7 per cent.
11....	New York	New York	3,000 00	7,000 00	7 per cent.
13....	New York	New York	15,000 00	35,000 00	7 per cent.
14....	New York	New York	6,000 00	13,000 00	7 per cent.
16....	New York	New York	7,500 00	16,000 00	7 per cent.
19....	New York	New York	25,000 00	70,000 00	7 per cent.
20....	New York	New York	6,000 00	13,000 00	7 per cent.
21....	New York	New York	5,000 00	12,000 00	7 per cent.
23....	New York	New York	2,500 00	12,000 00	7 per cent.
24....	Westchester	New York	2,000 00	6,000 00	7 per cent.
25....	Kings	West Farms	7,000 00	6,000 00	7 per cent.
26....	Kings	Brooklyn	2,500 00	15,000 00	7 per cent.
28....	Kings	Brooklyn	8,000 00	6,000 00	7 per cent.
29....	New York	Brooklyn	4,000 00	.....	7 per cent.
30....	State of New Jersey	New York	5,000 00	.....	7 per cent.
31....	New York	New York	2,000 00	.....	7 per cent.
32....	New York	New York	3,000 00	.....	7 per cent.
33....	Richmond	.....	6,000 00	.....	7 per cent.
			\$124,500 00	.....

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates; 2. New York State stocks; 3. Stocks of other States; 4. Stocks or bonds of cities in this State; 5. Stocks or bonds of counties; 6. Stocks or bonds of towns; 7. Stocks or bonds of villages; 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated Market value.
Missouri State bonds	6	\$24,000 00	\$25,000 00	\$23,250 00
North Carolina State bonds	6	6,462 50	10,000 00	1,800 00
Brooklyn City bonds	7	18,437 50	18,000 00	18,000 00
Yonkers Town bonds	7	4,900 00	5,000 00	5,000 00
		\$53,800 00	\$58,000 00	\$48,000 00

SCHEDULE C.

PUBLIC STOCKS UPON WHICH MONEY HAS BEEN LOANED.

Name of Stock.	Par value.	Amount loaned thereon.	At what rate of interest.
United States 5-20 bonds	\$400 00	\$400 00	7 per cent.

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Co.	Location.	Amount on deposit.	At what rate of interest.
Bank of Metropolis.....	New York city,	\$2,743 94	4 per cent.
Bull's Head Bank.....	New York city,	4,805 15	4 per cent.
Manuf. and Merch. Bank ..	New York city,	63 39	4 per cent.
Second National Bank.....	New York city,	193 16	None.
Eighth National Bank	New York city,	400 00	None.
		<u>\$8,205 64</u>	

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS:

	Excess of cost over market value.	Excess of market value over cost.
United States stocks .....	.....	.....
New York State stocks .....	.....	.....
Stocks of other States.....	\$5,412 50	.....
Bonds of counties, cities and towns of this State.....	437 50	\$100 00
Other stocks and bonds .....	.....	.....
Real estate .....	.....	.....
Totals.....	<u>\$5,850 00</u>	<u>\$100 00</u>
Difference *	<u>.....</u>	<u>.....</u>

* If cost exceeds market value the difference should be entered under the head "Other Liabilities," in the report.

LOANS, DEPOSITS, INVESTMENTS, OR ASSETS OF EVERY DESCRIPTION,
NOT HERETOFORE ENUMERATED, VIZ.: *

Bonds of sundry trustees.....	\$55,000 00
Lease and improvements.....	10,000 00
Accrued interest.....	3,426 28
Revenue and postage stamps.....	175 00
Loaned on depositors' pass-books.	2,942 24
	<hr/>
	\$71,543 52
	<hr/>

Report of the People's Savings Bank, an incorporated institution for savings, of its Condition on the 1st day of January, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$124,500 00
2. Stock investments, as per Schedule B, hereto annexed, cost	53,800 00
3. Amount loaned on public stock, as per Schedule C, hereto annexed.....	400 00
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.	
6. Real estate, cost \$; market value, \$; standing on books at \$ 	
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	8,205 64
8. Cash on hand not deposited in bank.....	8,236 43
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	71,543 52
	<hr/>
	\$266,685 59
	<hr/>

* As interest credited to depositors is stated among the liabilities, it will of course be just to include in this schedule the interest due, though unpaid, on investments.

Liabilities.

1. Amount due depositors.....	\$255,906 46
Principal.....	\$249,116 15
Interest credited for the 1st of Jan- uary, 1875.....	6,790 31
2. Other liabilities, viz.: Difference between cost and market value of securities, as per Schedule G....	5,750 00
Loan from Bank of Metropolis.....	5,000 00
3. Excess of assets over liabilities	29 13
	<hr/>
	\$266,685 59
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1874.....	1,528
2. Number of accounts opened during the year 1873....	662
3. Number of accounts closed during the year 1873....	634
4. Number of accounts opened since organization.....	4,203
5. Amount deposited, not including interest credited dur- ing 1873.....	\$650,509 97
6. Amount deposited, including interest credited, for the same period.....	664,535 61
7. Amount withdrawn during the year 1873.....	702,699 05
8. Amount of interest or profits received during the year 1873.....	13,131 43
9. Amount of interest credited to depositors for the same period.....	14,025 64
10. Amount of each semi-annual credit of interest, for the year 1873, and when credited: July 1, 1873, \$7,235.33; January 1, 1874, \$6,790.31. Credited at other periods during the year.....	
11. Rate per cent of dividends or interest to depositors the past year, six per cent.	

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Frederick Olmstead, president and Charles T. Rogers, secretary of the People's Savings Bank, an incorporated institution for sav-
ings, located and doing business at No. 301 Third avenue, in New
York city, being duly and severally sworn, each for himself saith,
that the foregoing report, and the schedules accompanying the same
are, in all respects a true statement of the condition of said institu-
tion before the transaction of any business on the morning of the first

day of January, 1874, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

FRED'K. OLMSTEAD,

President.

CHARLES T. ROGERS,

Secretary.

Severally subscribed and sworn by both }
deponents, the 28th day of January, {
1874, before me.

WILLIAM B. STUYVESANT,
Notary Public (No. 176), New York Co.

Q. Produce the bank report made January 1, 1875?

Witness here produced the bank report made January 1, 1875.

Mr. Tracey read it in evidence as follows:

Report of the People's Savings Bank, an incorporated institution for savings, of its condition on the first day of January, 1875, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$123,300 00
2. Stock investments as per Schedule B, hereto annexed.....	47,932 50
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed	
6. Real estate, cost, \$; market value, \$; standing on books at \$	
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	4,163 30
8. Cash on hand not deposited in bank	5,347 66
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	69,676 20
	<u>\$250,419 66</u>

Liabilities.

1. Amount due depositors.....	\$243,559 60
Principal.....	\$237,356 39
Interest credited for the 1st of January 1875	
2. Other liabilities, viz.: Excess of cost over market value of stocks and bonds.....	4,552 50
3. Excess of assets over liabilities.....	2,307 56
	<u>\$250,419 66</u>

STATISTICAL.

1. Number of open accounts on the morning of Janu- ary 1, 1875.....	1,587
2. Number of accounts opened during the year 1874....	518
3. Number of accounts closed during the year 1874.....	459
4. Number of accounts opened since organization.....	4,721
5. Amount deposited, not including interest credited, during 1874.....	\$424,812 96
6. Amount deposited, including interest credited, for the same period.....	437,503 37
7. Amount withdrawn during the year 1874.....	449,850 23
8. Amount of interest or profits received or earned* during the year 1874	15,596 83
9. Amount of interest credited to depositors for the same period.....	12,690 41
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited: July 1, 1874, \$6,487.20; January 1, 1875, \$6,203.21. Credited at other periods during the year.....	
11. Rate per cent of dividends or interest to depositors during the past year, six per cent.	

STATE OF NEW YORK, } ss.:
COUNTY OF

Frederick Olmstead, President, and Charles F. Rodgers, Secretary of the People's Savings Bank, an incorporated institution for savings located and doing business at No. 301 Third avenue, in the city of New York, being duly and severally sworn, each for himself, saith that the foregoing report and the schedules accompanying the same are, in, all respects, a true statement of the condition of said institution before

* If amount received is reported, strike out "or earned;" if amount earned is reported strike out "received or."

the transaction of any business on the morning of the 1st day of January, 1875, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

FRED. ODMSTEAD,

President.

CHARLES F. RODGERS,

Secretary.

Severally subscribed and sworn
by both deponents, the 10th day }
of January, 1875, before me.

WM. B. STUYVESANT,

Notary Public (No. 176), New York Co. .

BALANCE ON CHECK ACCOUNT IN THE PEOPLE'S SAVINGS BANK,
NEW YORK.

July 1, 1872.	February 1, 1874.	February 1, 1875.
\$150 53	\$1,164 94	\$509 91
49 77	1 72	31 15
833 62	56 10	775 76
1,030 91	21 38	175 50
.....	520 99	94 44
210 78	.....	.....
.....	82 73	27 65
500 10	82 50	45 43
422 46	2,114 23	878 17
.....	6 54	74 32
.....	118 13	43 13
.....	1,169 20	.....
119 26	444 48	52 24
484 92	.....	.....
85 82	154 33	1,077 89
314 92	.....	.....
317 44	116 48	345 73
.....	2,048 97	.....
373 84	1,965 38	2,258 37
.....
1,652 99	3,932 71	1,086 98
536 98	23 21	385 45
.....
.....	23 94	13 91
.... .	164 37	278 78
238 05	13 86	.... .
321 84	44 60	44 60

July 1, 1872.	February 1, 1874.	February 1, 1875.
.....	\$390 85	\$700 11
.....	11 25	362 86
\$1 25	38 81	.....
.... .	540 49	394 07
,.....	.....	20 27
1,775 36	124 50	.....
886 82	435 53	91 78
130 11	491 74	155 64
357 99	858 98	36 65
409 91	425 00	645 37
55 36	15 37	.....
1,128 59	263 17	276 90
83 40	341 20	62 76
.....	1,000 00	.... .
.....	.....	29 84
115 10	175 60	26 10
5,421 29	2,410 32	78 20
.....	85 60	18 32
205 66	493 72	198 23
426 13	135 97	.....
.... .	2 77	2 77
231 72	245 88	255 80
1,097 10	190 87	381 13
.....
105 61	107 72	107 72
.....	7 33	.....
375 85	330 79	107 12
4,810 37	289 37	7 33
170 33	923 49	.....
382 59	.....	.....
201 27	10 50	10 50
39 03	.....	.....
666 03	641 53	.....
155 45	44 90	10 80
5 98	755 00	.....
7 41	.....	.....
.....	.....	398 50
2,197 90	113 86	113 86
365 61	185 03	.....
2,015 28	1,088 89	1,194 60
41 01	.....	.....
26 53	.....	.....

July 1, 1872.	February 1, 1874.	February 1, 1875.
\$304 14	\$10 59	\$11 26
379 45
356 19	83 45	63 45
663 60	4 63	182 63
1,725 00	552 16	63 20
706 79
380 49
530 76
117 11
83 31
527 55
33 80
16 52
19 12
31 01
705 45
74 81
69 47
14 57
93 32
16 60
69 91
46 36	80 15	80 15
529 72
21 74
961 68
294 26
794 59
1,360 00
<u>\$42,568 59</u>	<u>\$28,177 80</u>	<u>\$14,290 54</u>

	Total deposits.	Check account.	Savings account.
July 1, 1872.....	\$265,405 13	\$42,568 59	\$222,836 54
Feb. 1, 1874.....	238,090 13	28,177 80	209,912 33
Feb. 1, 1875.....	234,086 18	14,290 54	219,795 64

People's Savings Bank, New York.

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company	Amount on deposit	At what rate of interest.
Manufacturers and Merchants' Bank.....	\$63 39	4 per cent.
Second National Bank.....	108 16	None.
Eighth National Bank.....	400 00	None.
Bull's Head Bank.....	1,752 43	4 per cent.
Bank of Metropolis.....	1,839 32	4 per cent.
	<u>\$4,163 30</u>	

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS :

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....	.....	.....
New York State stocks.....	.....	.....
Stocks of other States....	\$4,887 50	\$335 00
Bonds of counties, cities and towns of this State,	.....	.....
Other stocks and bonds.....	.....	.....
Real estates.....	.....	.....
Totals.....	<u>\$4,887 50</u>	<u>\$335 00</u>
Difference* .....	.....	.....

LOANS, DEPOSITS, INVESTMENTS, OR ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED, VIZ : †

Accrued interest.....	\$8,748 02
Lease and improvements.....	10,000 00
Loaned on depositors' pass-books.....	3,428 18
Bonds of sundry trustees.....	47,500 00
	<u>\$69,676 20</u>

*If cost exceeds market value the difference should be entered under the head "Other liabilities," in the report.

†As interest credited to depositors is stated among the liabilities, it will, of course be just to include in this schedule the interest due, though unpaid, on investments.

SCHEDULE A—BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
5 ..	New York.	New York.	\$9,000 00	\$18,000 00	.....
7 ..	Westchester.	Morrisania	2,000 00	4,500 00	.....
11 ..	New York	New York.	3,000 00	7,000 00	.....
13 ..	New York	New York.	15,000 00	35,000 00	.....
16 ..	New York	New York.	7,500 00	16,000 00	.....
19 ..	New York	New York.	25,000 00	70,000 00	.....
20 ..	New York	New York.	6,000 00	13,000 00	.....
23 ..	New York	New York.	2,500 00	6,000 00	.....
25 ..	Kings.	Brooklyn.	2,500 00	6,000 00	.....
26 ..	Kings.	Brooklyn.	7,000 00	15,000 00	.....
27 ..	Hudson Co., New Jersey	Jersey City	5,000 00	15,000 00	.....
29 ..	New York.	New York.	3,000 00	8,000 00	.....
30 ..	Richmond	Northfield	6,000 00	12,000 00	.....
31 ..	Kings.	Flatsbush	8,000 00	.....	.....
32 ..	Kings.	.....	4,000 00	.....	.....
33 ..	New York.	New York.	5,000 00	15,000 00	.....
34 ..	Kings.	Brooklyn.	5,000 00	12,000 00	.....
35 ..	Kings.	Brooklyn.	2,000 00	5,000 00	.....
36 ..	New York.	New York.	3,800 00	8,000 00	.....
37 ..	Westchester.	Mount Hope.	2,000 00	6,000 00	.....
			\$123,300 00	.....	.....

SCHEDULE B.

Stock Investments.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stocks or bonds of villages. 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of Interest.	Cost.	Par value.	Estimated market value.
Missouri State bonds.....	6	\$19,325 00	\$20,000 00	\$19,400 00
North Carolina State bonds.....	6	6,462 50	10,000 00	1,500 00
Brooklyn city bonds.....	7	12,245 00	12,000 00	12,480 00
Yonkers town bonds.....	7	4,900 00	5,000 00	5,000 00
Yonkers city bonds.....	7	5,000 00	5,000 00	5,000 00
		\$47,932 50	\$52,000 00	\$43,380 00

The Senate took a recess to 4 P. M.

SARATOGA SPRINGS, *July 27, 1877.*

The Senate reconvened at 4 P. M.

Henry L. Lamb, a witness on behalf of the State, being recalled, further testified :

Examined by Mr. TRACY :

Q. Mr. Lamb please produce the report of this bank for July 1, 1874.

Witness produced report.

Mr. TRACY — The report reads as follows :

SCHEDULE A — BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
5....	New York.....	New York.....	\$9,000 00	\$18,000 00	7 per cent.
7....	Westchester.....	Morrisania.....	2,000 00	4,500 00	7 per cent.
11....	New York.....	New York.....	3,000 00	7,000 00	7 per cent.
13....	New York.....	New York.....	15,000 00	35,000 00	7 per cent.
16....	New York.....	New York.....	7,500 00	16,000 00	7 per cent.
19....	New York.....	New York.....	25,000 00	70,000 00	7 per cent.
20....	New York.....	New York.....	6,000 00	13,000 00	7 per cent.
23....	New York.....	New York.....	2,500 00	6,000 00	7 per cent.
25....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
26....	Kings.....	Brooklyn.....	7,000 00	15,000 00	7 per cent.
27....	Hudson co., N. J.....	Jersey City.....	5,000 00	15,000 00	7 per cent.
28....	New York.....	New York.....	1,500 00	6,000 00	7 per cent.
29....	New York.....	New York.....	3,000 00	8,000 00	7 per cent.
30....	Richmond.....	Northfield.....	6,000 00	12,000 00	7 per cent.
31....	Kings.....	Brooklyn.....	8,000 00	.....	7 per cent.
32....	Kings.....	Brooklyn.....	4,000 00	.....	7 per cent.
33....	New York.....	New York.....	5,000 00	15,000 00	7 per cent.
34....	Kings.....	Brooklyn.....	5,000 00	12,000 00	7 per cent.
35....	Kings.....	Brooklyn.....	2,000 00	5,000 00	7 per cent.
36....	New York.....	New York.....	2,300 00	8,000 00	7 per cent.
			\$121,300 00	.....

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates; 2. New York State stocks; 3. Stocks of other States; 4. Stock or bonds of cities in this State; 5. Stocks or bonds of counties, 6. Stocks or bonds of towns; 7. Stocks or bonds of villages; 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
Brooklyn city bonds.....	7	\$12,245 00	\$12,000 00	\$12,000 00
Missouri State bonds.....	6	19,325 00	20,000 00	18,800 00
Yonkers town bonds.....	7	4,900 00	5,000 00	5,000 00
North Carolina State bonds.....	6	6,462 50	10,000 00	1,800 00
		\$47,932 50	\$52,000 00	\$42,600 00

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location	Amount on deposit.	At what rate of interest.
Bull's Head Bank.....	N. Y. city..	\$9,695 70	4 per cent.
Bank of the Metropolis.....	N. Y. city..	7,924 23	4 per cent.
Eighth National Bank	N. Y. city..	4,000 00	None.
Second National Bank.....	N. Y. city..	108 16	None.
Manufacturers and Merchants' Bank	N. Y. city..	63 39	4 per cent.
		<u>\$18,191 48</u>	

People's Savings Bank, New York.

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS.

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....	.....	.....
New York State stocks.....	.....	.....
Stocks of other States.....	\$5,187 50	.....
Bonds of counties, cities and towns of this State,	245 00	\$100 00
Other stocks and bonds .....	.....	.....
Real estate .....	.....	.....
Totals.....	<u>\$5,432 50</u>	<u>\$100 00</u>
Difference*		<u>\$5,332 50</u>

LOANS, DEPOSITS, INVESTMENTS, OR ASSETS OF EVERY DESCRIPTION, NOT HERETOFORE ENUMERATED, VIZ. :†

Bonds of sundry trustees.....	\$55,000 00
Lease and improvements.....	10,000 00
Accrued interest.....	5,503 62
Revenue and postage stamps.....	175 00
Loaned of depositors' pass-books.....	2,500 00
	<u>\$73,178 62</u>

People's Savings Bank, New York.

* If cost exceeds market value the difference should be entered under the head, "Other liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will, of course, be just to include in this schedule the interest due, though unpaid, on investments.

Report of the People's Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$121,300 00
2. Stock investments, as per Schedule B, hereto annexed.....	47,932 50
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	.
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate; standing on books, at \$ market value, \$; cost.....	
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	18,191 48
8. Cash on hand not deposited in bank.....	7,158 42
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	73,178 62
	<hr/>
	\$267,761 02
	<hr/>

LIABILITIES.

1. Amount due depositors.....	\$263,348 70
Principal.....	\$257,361 50
Interest credited for the first of July, 1873	6,487 20
2. Other liabilities, viz.: Cash of stock on market value,	5,332 50
3. Excess of assets over liabilities	
	<hr/>
	\$269,181 20
	<hr/>

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss. :

Frederick Olmstead, president, and Charles F. Rodgers, secretary, of the People's Savings Bank, an incorporated institution for savings, located and doing business at No. 301 Third avenue, in New York,

being duly and severally sworn, each for himself saith, that the foregoing report, and the schedules accompanying the same, are in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of July, 1874, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

FREDERICK OLMSTEAD,

President.

CHARLES F. RODGERS,

Secretary.

Severally subscribed and sworn by both }
deponents, the 27th day of July, 1874, }
before me.

ALBERT J. CALDWELL,

Notary Public N. Y. Co.

Q. Mr. Lamb, after this report of July 1, 1874, or after the report of July 1, 1875, did you do any work about these reports; any examination of them? A. No, sir.

Q. None? A. No, sir.

Q. Will you find now the order given for all of these examinations on the 25th of October, 1875? A. Here is the report of the examiner, with the accompanying commission or order, dated October 25, 1875.

Q. Can you state whether any thing was done in the department in respect to this bank, intermediate the 1st of January, 1874, and this order? A. I do not know that any thing was done, except by correspondence, and what appears of record in the office.

Q. Can you lay your hands upon any correspondence or record during that period, relating to the bank, besides the report? A. The correspondence of the department I read this morning; I hold the package of letters here written to the department in respect to this bank; chiefly written by the officers of the bank.

Q. Do you find any other letters from the department to the bank than those you have read? A. No, sir; I have read every thing.

Q. Do you find upon the records any abstracts or examinations, or written scrutiny of this report? A. None, except what appears in the reports themselves; I do not know any thing in addition to the report.

Q. Do you know of any orders being made by the department upon the bank during that period? A. No, sir; I know of none; as I have stated in other examinations, I state again, that my information and knowledge is based upon the record; in this case as in every case, a good deal of business was done in respect to banks at New

York which I did not know about, and action may have been taken which I was not cognizant of at the time, and do not know now.

By Mr. CHAPMAN:

Q. You are speaking of the action between the superintendent and the bank officers? A. Yes, sir; Mr. Ellis referred to letters read this morning, of going to New York, but what was done there I have no information.

Q. Was there any consultation or conference between you and Mr. Ellis on this subject during that period? A. No, sir.

Mr. CHAPMAN—That I object to and wish to have a ruling upon—conferences between the Bank Superintendent and Deputy Superintendent. They are not equal officers. The Bank Superintendent has the responsibility. I suppose it is entirely immaterial whether there was or was not.

Mr. TRACY—Mr. President, if Mr. Ellis said any thing in those conversations I desire to prove it.

Mr. CHAPMAN—Mr. President, if there is any thing of that kind I do not object to it.

Mr. TRACY—Mr. President, I propose to ask if Mr. Ellis said any thing. A. No, sir, I do not recollect of any thing.

Q. That you know of? A. No, sir.

Q. Here is this warrant for an examination, dated October 25, 1875, appointing George W. Reid to examine into the condition, working and affairs generally, of the People's Savings Bank, of New York city, and report thereon; here follows his report.

Mr. CHAPMAN—Is that in evidence?

Mr. TRACY—No, I will read it in evidence; it is as follows:

NEW YORK, Nov. 10, 1875.

Hon. D. C. ELLIS:

DEAR SIR—I have been up to the People's Savings Bank to-day, and find they owe their depositors..... \$196,431 71

Assets:

Bonds and mortgages.....	\$81,300 00	
Call loan in pass-book.....	2,428 18	
North Carolina State—\$10,000 8	800 00	
Safes and fixtures, say	3,000 00	
Cash and in deposit.....	9,926 65	
	<hr/>	\$97,454 83
Deficiency		<hr/> \$98,976 88

Rodgers is in the bond you hold for.....	\$5,700 00	
And Capt. Burden for.....	1,500 00	
New bond <i>on interest</i> , in place of the old one, and now in the bank.....	51,500 00	\$58,750 00
Deficiency over the bonds ...		\$40,226 88

The accrued interest in bonds and mortgages will about balance that accrued to depositors.

November 10.

BONDS AND MORTGAGES PEOPLE'S SAVINGS BANK.

No.	Location.	Amount.	Value.
5	New York.....	\$9,000	\$18,000
7	Morrisania.....	2,000	4,500
13	New York.....	15,000	35,000
16	New York.....	7,500	16,000
20	New York	6,000	13,000
23	Harlem	†2,500	†6,000
25	Brooklyn	2,500	6,000
26	Brooklyn	7,000	15,000
*27	Jersey City.....	5,000	15,000
*29	New York.....	2,000	8,000
30	Staten Island.....	†6,000	12,000
*31	Flatbush.....	8,000	20,000
34	Brooklyn	†5,000	12,000
36	New York.....	3,800	8,000
		\$81,300	

“ November 11, 1875.

“ HON. D. C. ELLIS, *Superintendent* :

“ DEAR SIR. — I have received your telegram, and now inclosed the report on the People's and min. of B. and M., as far as I can from my notes. The trustees on the bond in the department have all given new bonds on interest, for a larger amount or put in bonds and M.,

* Nos. 27, 29 and 31 were contributed by trustees instead of bonds, but the interest has not been paid. One bond and mortgage for \$25,000 has been assigned to a depositor of \$11,000, he paying the difference in cash. No. 33 (Rodgers' wife) \$5,000 has been taken out, he says, to increase it to \$5,750, the amount of his bond, and I have counted that amount in trustee's bonds. The wife would not unite in No. 29, but the property is said to be worth \$8,000.

† Foreclosing.

except Captain Burden \$1,500, and Rodgers \$5,750, but no interest has been paid.

"The \$7,000 dep. in bonds, and Citizens' S. Bk., were transferred as part payment of the \$25,000 B. and M. sold to a depositor, and remain on dep. to save the interest from July to January first.

"To-morrow I will go up to the "Trades," and Saturday may go to Jamaica, to examine that bank.

Yours truly,
GEO. W. REID."

Q. I understand you have no copy of any of these telegrams? A. No, sir; no telegrams going out of the office.

Q. Will you state whether this examination which has just been put in was a regular or special examination? A. Do you mean the examination of November 10, 1875?

Q. Yes, sir? A. The filing will show; my impression is it was a regular examination; I have just examined the paper and find it to be a regular examination.

Q. The last examination before that was two years previous, or a little more? A. Yes, sir.

By Mr. CHAPMAN:

Q. The last reported? A. Yes, sir.

Q. The examination of Reid and Smith was made in September, 1873; was there any examination after that before this? A. No, sir; not to my knowledge.

By Senator WAGSTAFF:

Q. On page 266 is what you now read?

Mr. TRACY — That is the last one; the examination of 1875, dated November tenth.

Senator WAGSTAFF — That is the one you have just been reading?
A. Yes, sir.

Q. Cross-examination of *Henry L. Lamb*:

By Mr. CHAPMAN:

Q. Whether Mr. Ellis himself made an examination in New York at any time, you do not know. A. No, sir.

Q. It seems that this examination was made November tenth, as appears from the papers? A. Yes sir.

Q. The very same day Mr. Reid wrote to the department stating generally the deficiency in the bank and its condition? A. Yes, sir.

Q. This letter dated November tenth? A. Yes, sir.

Q. I see the very next day Mr. Ellis wrote the letter to the Attorney-General asking him to wind up the bank? A. That is the fact, I believe.

Q. He did not even wait for the regular report which appears to have come on the day after? A. No, sir.

Q. That is assuming that the filing is correct? A. I have no doubt the filing was correct in each case.

Q. I see that a letter dated the 11th day of November purports to accompany the report of the examination made the day previous; now, is it not possible that that may have been dated on the morning of the eleventh of November, come up to the department and laid on Mr. Ellis' desk, and he wrote the letter to the Attorney-General, and the next day it was handed out to the clerk to be filed? A. It may be possible.

Mr. CHAPMAN — The letter of the eleventh of November refers to the report accompanying the letter?

By Mr. TRACY :

Q. That is in the letter-book? A. Yes, sir; Mr. Ellis' letter to the Attorney-General, if I recollect, is dated the eleventh day of November?

Mr. CHAPMAN — It is.

The WITNESS — November 11, 1875, is the date of that.

By Mr. CHAPMAN :

Q. I ask you, Mr. Lamb, whether by the letter that purports to be received on the eleventh day of November, the deficiency is not a different amount from the amount mentioned in his letter to the Attorney-General; does it not there purport to be \$40,000; what is the deficiency as specified in the letter of November tenth? A. Deficiency, \$98,976.88.

Q. Deducting the trustees' bonds? A. Deficiency over the bonds \$40,266.88.

Q. You will find, by reference to his letter to the Attorney-General, that the deficiency which he there specifies is the exact deficiency mentioned in this report of the examiner,—\$42,000? A. Yes, sir.

Q. That would leave the inference that the letter to the Attorney-General was based upon this report, would it not?

Mr. TRACY — The letter to the Attorney-General, closing the bank, put in at \$40,000.

Q. Turn to the letter to the Attorney-General and see whether it is the amount mentioned in the letter, or the amount mentioned in this report? A. You will find it in the letter book; simply the deficiency; leaving a deficiency of \$42,779.96.

Q. Will you look at the Reid report and see whether that is not precisely the deficiency that is in that report, even to a cent? A. It is the same.

Q. So that the point in regard to this filing of November thirteenth, while the Attorney-General's letter is dated November eleventh, has no significance from the fact that the letter to the Attorney-General was based upon this report? A. No, sir.

Isaac Smith, a witness on behalf of the State, being duly recalled, testified as follows:

Examined by Mr. TRACY:

Q. Mr. Smith did you assist Mr. Reid in the examination made in September, 1873, of this bank? A. Yes sir.

Q. You were one of the two examiners? A. Yes, sir.

Q. Mr. Reid and yourself? A. Yes, sir.

Q. Are you named in the commission to examine it? A. Yes, sir.

Q. What has been your ordinary business; in the departments as examiner? A. In the departments.

Q. You have never been examiner except in that one case? A. One case in 1867 and two other cases since, I believe.

Q. Altogether, some four cases that you have examined? A. Yes, sir.

Q. You observe that you and Mr. Reid made a different deficit? A. Yes, sir.

Q. Explain what made that difference? A. I will have to have the report; I think I can probably only state some of the reasons, for it is a long time since the examination was made; Mr. Reid and I differed as to the value of the lease and furniture and fixtures; part of the money that they had charged for furniture had been expended in a banking room they had vacated some time before; I thought it was not right to allow all of that; the lease they had used for some time, and the secretary could not convince me it was worth \$10,000 or any thing, so by way of compromise I stated the furniture and fixtures at the amount they stated and threw out the lease, and then there was a difference in accrued interest; Mr. Reid allowed interest on the trustees' bonds, and I disallowed it for the reason I did not have much confidence in the bonds, as I thought the bank had enough of that kind of assets.

Q. Mr. Reid allowed it as one of the items of resources of the bank? A. Yes, sir; I believe they had not paid any interest on the bonds; that was another reason, I think, that will account for nearly the difference at any rate.

Mr. MCGUIRE — I understood you to be asked to state the points of difference between your statement and Mr. Reid's, and to not give your opinion or judgment. A. I gave my reasons for making the difference.

Mr. MCGUIRE — I did not so understand the counsel.

Mr. TRACY — I meant that they differed in judgment and I wanted him to state what it was.

Q. Mr. Reid saw fit to put the lease in the valuation and also the fixtures and furniture in the valuation and you thought it was too much on them both, so you allowed the fixtures at their own claim and struck out the whole amount of the rent? A. Yes, sir.

Q. That was one of the large distinctions between your conclusions and Mr. Reid's? A. Yes, sir.

Q. Another was the accrued interest of the trustees' bonds which Mr. Reid thought was proper to allow which you disallowed? A. Yes, sir.

Q. Was your work and his carefully done? A. Yes, sir; I think it was.

Q. Took time about it? A. Yes, sir.

Q. Looked at the articles and exercised your judgment? A. Yes, sir.

Q. After this examination was reported to the superintendent, did you see Mr. Ellis and have any conversation with him on the subject? A. I explained the examination and talked to him about it.

Q. You did see him? A. Yes, sir.

Q. What was said between you and him then? A. I do not know that; I cannot say that; no, I cannot tell any thing that transpired between us.

Q. After this bank was proceeded against, you knew of that, I suppose? A. Yes, sir.

Q. Soon after this examination? A. Yes, sir.

Q. Do you know any thing of persons coming from New York to see Mr. Ellis on the subject, after the proceedings were commenced in the attorney-general's office? A. Yes, sir.

Q. Who came? A. Several of the trustees; among them the president.

Q. Name the president? A. Frederick Olmstead.

Q. Did you hear any interviews between them and Mr. Ellis? A. No; the interviews were held in his private office.

Q. Did Mr. Ellis, at any time, inform you about those interviews, or about any action based upon the interviews? A. I do not know that he did.

Q. Have you any knowledge that this deficit was made good? A. No, sir.

Q. None came to your knowledge? A. No, sir.

Q. After these proceedings were commenced, do you know what became of the proceedings—how they ended? A. No, only in a general way; I do not know exactly where my information came from, but I understood in connection with my business at the office that an injunction was served on the bank, and the trustees came up, and proceedings were stopped; that is about all I know about it.

Mr. CHAPMAN—You have got the fact in the attorney-general's record?

Mr. TRACY—I do not know whether I can rely upon that memorandum there or not; that pencil memorandum on a court record don't amount to any thing at all.

Mr. CHAPMAN—You have proved it?

Mr. TRACY—Yes, sir.

Q. You merely stated that you understood that they were stopped? A. Yes, sir.

Q. Can you state from whom you got that information? A. No, I cannot.

Q. You were still at the office when the second proceeding was instituted in the latter part of 1875? A. Yes, sir.

Q. Did you see Mr. Ellis on that subject? A. No, sir.

Q. Do you know whether there were any examinations made of this bank—special examinations between those two regular ones of September, 1873, and November, 1873? A. Those are not both regular examinations; between those two I know of no special examinations.

Q. That in 1873 was special—that in 1875 was regular? A. Yes, sir.

Cross-examination of *Mr. Smith* :

By Mr. CHAPMAN :

Q. You say, Mr. Smith, that Mr. Ellis did not take you into his private office in consultation with the trustees? A. I do.

Q. When he consulted with trustees or officers of banks generally in regard to their affairs, he did not take his clerks into the private office with him to listen to the consultations, did he? A. No, sir.

Q. So far as you know, it is not customary in the departments at Albany for the heads of the departments to take a clerk into the private office when they are discussing matters connected with the duties of the office? A. No, sir.

Q. There was nothing strange in his not calling you in there at the time? A. Nothing.

Q. You say that you reported a deficiency of some \$36,000 in 1873, while Mr. Reid returned a deficiency of only some \$28,000; when Mr.

Ellis turned the bank over to the Attorney-General in 1873, did he take the smallest sum for a deficiency, or did he take the largest sum reported to him as a deficiency? A. The largest sum.

Q. Then there was not any favoritism from him to the bank in the report to the Attorney-General? A. I think not.

Q. He was charging the highest sum which the highest examiner put upon it? A. Yes, sir.

Q. You say you know of no examination made of this bank by the department between September, 1873 and 1875; do you know what Mr. Ellis did in connection with the bank in New York? A. No, sir.

Q. Have you no means of knowledge? A. No, sir.

Q. All you speak of, when you speak of nothing being done, so far as you know, is simply from the records in the office? A. Yes, sir.

Q. The same as Mr. Lamb; what Mr. Ellis did outside of the office you have no knowledge? A. No, sir.

Q. Mr. Ellis' examination did not require to be made out and filed and reported if he made any? A. Well, I don't know.

Q. He can make a personal examination? A. Yes, sir; but then the law provides what is to be done in such a case.

Q. Does the law provide he shall file that report when he makes it himself? A. No, sir; there is another provision.

Q. Let us find out what the condition is? A. Do you refer to special examinations?

Q. I refer to any examination he might make. A. I thought you meant special examinations, because that is the only examination that could be made between those periods.

Mr. TRACY — Look at that law of 1875.

Mr. CHAPMAN — This law only applied during 1875.

Q. There is a law of 1871? A. That law does not apply; I should have qualified that — the law of 1871.

Q. Prior to the passage of the law of 1871, I ask you whether, in case the Superintendent made any examination or investigation in person, there was any thing requiring a report to be filed in the department and after examination? A. No, sir; not as I remember, by the Superintendent.

Q. The Superintendent of the Bank Department has the right to go into a bank at any time and examine any part or in whole, simply to satisfy himself? A. I suppose he has.

Q. He is not required to make any record of it in the department? A. I think I made a mistake in saying it applied only to special examinations; I think it applied to all.

Q. I will ask you whether, under this law, there is any provision requiring an examination, when made by the Superintendent in person, to be filed in the department. "When such examination shall

be made by the Superintendent in person, or by one or more regular clerks in the department, no charge shall be made except for necessary travel and other expenses. The result of any such examination shall be certified by the examiners, or one of them, upon the records of the corporation examined, and the result of all the regular examinations during the previous year shall be embodied in the annual report of the Superintendent, required by this act to be submitted to the Legislature." Was there any thing in that provision of law requiring the Superintendent to file in the department the result of any special examination which he himself personally made? A. I do not know of any; I so understand it.

Q. It is only the regular examinations, and those are required to be printed in the report? A. Yes, sir.

Q. And those are when they are made by the examiner referred to in the act? A. Yes, sir.

Q. Now, I understand you to say that you do not know whether Mr. Ellis did drop into this bank and see whether any deficiency had been made up or not? A. No, sir.

Q. I ask you whether you do not understand that Mr. Ellis had been down there and made an examination sufficient to satisfy himself in connection with that bank after your report of 1873? A. No, sir.

Q. You did not so understand it? A. No, sir; I heard it spoken of once that the deficiency had been made good.

Q. You heard it spoken of? A. That the deficiency had been made good,

Q. Spoken of by Mr. Ellis? A. Yes, sir; he told me.

Q. That was after the suit had been commenced by the Attorney-General? A. That was after he wrote the last letter to close the bank; in 1875.

Q. It was after the suit had been commenced by the Attorney-General? A. I cannot say that, for I do not keep track of that.

Q. Do I understand you to say that Mr. Ellis said the deficiency had been made good after December, 1875? A. No, sir; I say he told me after—

Q. You stated in 1875? A. Yes, sir; he told me after his letter had been written to the Attorney-General, November eleventh, I think.

Q. That it had been made good after 1873? A. Yes, sir; the deficiency of 1873.

Q. Is that the first you ever heard about their putting in mortgages, or any thing of that kind? A. Yes, sir.

Q. You can remember back four years, and remember that you did not hear any thing of that kind? A. Yes, sir; I know what my impression is after the whole time.

By Mr. TRACY :

Q. When the superintendent told you in the latter part of 1875 that the bank had made good the deficiency in 1873, did he tell you how they made it good ? I understood him to say by mortgages.

Q. By mortgages ? A. Yes, sir ; by mortgages put in by the trustees.

Q. This was the first time you ever heard from him about that ? A. Or from any one.

Q. The mortgages had been put in to make good the deficiency of 1873 ? A. Yes, sir.

Q. On the same occasion, did he or not mention to you that the proceedings of 1873 were discontinued by his direction ? A. No, sir.

Q. Did he say any thing about that ? A. No, sir.

Mr. TRACY. — The statute points at two things ; the one is a return to the department, and also where there is not a return, to the same thing in the department, by which the annual report states the fact of the examination.

Mr. CHAPMAN — That is the regular examination.

Mr. TRACY — The statute contains the fact that whenever the superintendent makes an examination, he must enter that on the books of the bank ; that is, examinations when actually made by the superintendent, or one or more persons appointed by him. The act then says: " Whenever such special examination shall be made by the superintendent, or by one or more of the regular clerks in said department, no charge shall be made except for necessary travel and other actual expenses." That leaves it as it was, but with power to do it himself or through other officers. " The result of any such examination, whether made by him or somebody else, shall be certified by the examiners, or one of them, upon the records of the corporation examined, and the result of the regular examination shall be embodied in the annual report," etc. .

Mr. CHAPMAN — There is nothing of the kind in the act of 1871.

By Senator HARRIS :

Q. In your examination of September, 1873, what was the amount of assets that you found ? A. I can state by examining the report ; I have just examined the report, and I find it to be \$314,939.52.

Q. This company made a report the subsequent January ? A. Yes, sir.

Q. What was the amount of assets reported by the bank at that time ? A. I will have to have the report to answer that.

Q. The report of 1874 is on page 204 of the printed book ? A. This is the statement of the report of the 1st of January, 1874 : " Amount of assets, \$266,685.59."

Q. Then the assets reported in January, 1874, were less than the assets reported by you as examiner? A. Yes, sir.

Q. Did yours include the obligations of the trustees? A. Yes, sir.

Q. Does the January report? A. It does.

By Mr. CHAPMAN:

Q. What are the liabilities January 1, 1874? A. Two hundred and sixty-six thousand six hundred and fifty-six dollars and forty-six cents.

Q. There was at that time a surplus of assets over liabilities? A. Yes, sir.

Senator HARRIS — How much?

Mr. CHAPMAN — Twenty-nine dollars and something; the Senator asked you if the assets were not less than you found them in the September previous? A. Yes, sir.

Q. Were not the liabilities a good deal less than you found them in the September previous? A. No doubt of that.

Q. About \$36,000 less, so that there had been some making up, taking that report to be true? A. I do not understand it that way.

Q. You found a deficiency, in September, of \$36,000, in round numbers? A. Yes, sir.

Q. Comparing the surplus, there was considerable making up, whether the liabilities had not decreased considerably more than that so as to at least leave a surplus, assuming the report of January, 1874, to be correct? A. Yes, sir.

Q. You spoke, in your examination, about your having rejected some two thousand and odd dollars of interest on those trustee bonds; you allowed the bonds, didn't you? A. Yes, sir; I put them in.

Q. As assets? A. Yes, sir.

Q. Credited the bank with them? A. They had been accepted for a long time.

Q. They had been received under Mr. Howell's administration? A. Yes, sir.

Q. You thought the bonds were sufficient, without allowing the interest? A. I did not think much of the bonds.

Q. Do you know that they have since been paid? A. No, sir.

Q. You do not know any thing about that? A. No, sir; I do not know any thing about that.

By Mr. TRACY:

Q. The item of bonds and mortgages at your examination in 1873, was stated at how much? A. One hundred and nineteen thousand dollars.

Q. The item of bonds and mortgages, in January following report, was how much? A. One hundred and twenty-four thousand five hundred dollars; it was \$5,500 more.

Q. Look at the amount of the trustees' bonds and compare them? A. The same amount.

Q. Exactly the same? A. Yes, sir.

Q. What were the trustees' bonds in their January report? A. Fifty-five thousand dollars.

Q. How much in this report? A. The same.

Q. Then, all the increase of the bonds and mortgages, at the time from your examination in 1873, to the bank return in 1874, was \$5,500? A. Yes, sir.

Q. Did Mr. Ellis, when he mentioned to you they had made up the deficiency, mention that there were, in addition, bonds and mortgages by which they had made it up? A. No, sir.

Q. Did he say bonds and mortgages, or did he say bonds? A. I understood him bonds and mortgages.

George W. Reid, a witness on behalf of the State, being recalled, further testified:

Examined by Mr. TRACY:

Q. You and a Mr. Smith made this examination in the fall of 1873? A. We did.

Q. Did you make as diligent and fair an examination as you usually did? A. Yes, sir.

Q. You meant to make a fair report, according to your judgment? A. Yes, sir.

Q. State what the difference was between you and him in your judgment about the assets? A. I never heard of it until to-day.

Q. Not until to-day? A. No, sir; I presume, from the report, it is on the furniture and fixtures and lease; the lease I put in at \$10,000, as it stood on their books, and as I had often had conversation with them and Mr. Ellis in reference to that, and they had reported that \$10,000; and the furniture I put considerably less than they had it on their books, and I made out my report and sent it up, supposing that Mr. Smith would sign it; I to-day, for the first time, heard that he had made another report.

Q. Slightly differing from yours? Yes, sir.

Q. There was another item of difference; you computed the accrued interest on the trustees' bonds? A. I presume I did.

Q. He says he did not; those two would make up the difference? A. I should think it would.

Cross-examination of *Mr. Reid*.

By Mr. CHAPMAN :

Q. You made out your examination as of the fourth of the month and sent it up to Albany? A. Yes, sir.

Q. And on the fifth of the month Mr. Smith makes out his report? A. It was the same examination.

Q. Your report is dated on the fifth and his on the fifth; after this report he made his report and dated it the next day; did Mr. Smith submit his report to you? A. No, sir; I never heard of it until to-day.

Q. Did you know of the difference between you and him when you were there at the bank making the examination? A. I think it was, he may have objected to that item being put in at \$10,000, the lease, although I do not remember it now.

Q. Mr. Ellis, when he reported to the Attorney-General, took the highest figures? A. So it appears.

Mr. TRACY—Did you make the examination of 1875? A. Yes, sir.

Q. Was that a diligent and honest examination and report by you? A. Yes, sir.

Isaac B. French, a witness on behalf of the State, being duly sworn, testified as follows :

Examined by Mr. TRACY :

Q. Where is your residence? A. New York.

Q. Were you appointed receiver of this bank? A. The order was entered on the 30th November, 1875; I filed my bond a few days afterwards.

Q. Filed your bond in New York? A. In Albany county.

Q. Your report has been made to Albany county? A. The venue has been changed to New York; it was changed in March, 1876, I think.

Q. I suppose you have known of the proceedings by which you were appointed the receiver? A. No, sir, I have not.

Q. Did you take possession of the assets of the bank? A. I did.

Q. Did you attend personally to the administration of the office of receiver? A. Yes, sir, I took possession in company with Mr. Ellis, as required by the order.

Q. You held possession ever since of the assets? A. They have been in the custody of the trust company; the assets have not been in my personal possession at all.

Q. How about the books and papers? A. They have been in my possession.

Q. The minute-books and the like of that? A. Yes, sir.

Q. What are the assets you have in your hands in amount? A. May I refer to a statement I have?

Q. Yes, sir. A. The nominal assets, that is, the assets at their face value, amount to \$162,717.64.

Q. How much was their actual value as realized upon?

Mr. McGUIRE—Mr. President, to that evidence we also object. It is what the Senate has passed upon. I object so as not to be assenting to the proof. We simply desire our objection to be recorded; the objection as to what the receiver realized from the sale of assets. Of course, the Senate in other cases has admitted, and I suppose will in this.

Q. Will you state how much you have realized from these assets?

A. I have realized up to the last trial, \$66,847.88; I have since realized \$7,056.24, besides recovering two sums of money that were held by the depositors of the bank who had been preferred; those two amounts came to \$16,000; they increased the liabilities and assets to the same amount.

By Mr. CHAPMAN:

Q. Two judgments? A. I got judgment in one case, and in the other it was paid before judgment.

By Mr. TRACY:

Q. What was the amount of the liabilities? A. One hundred and ninety-two thousand six hundred and six dollars and fifteen cents.

Q. Have you made any dividends? A. I have.

Q. How much? A. A dividend of thirty-three and a third per cent.

Q. What amount have you left on hand now of the funds in cash?

A. I have now about \$16,000; I have not the figures here exactly.

Q. From your best judgment upon all the remaining assets, how much a dividend, in addition to the thirty-three and a third per cent, will you ultimately be able to make?

Mr. McGUIRE—Mr. President, to that I object; let him state what the assets he has on hand are.

Mr. TRACY—Mr. President, he has stated that.

Mr. McGUIRE—No, he has stated what he had converted.

The WITNESS—I have on hand two mortgages in process of foreclosure, and two other mortgages that I consider worthless at present; they may be worth money; one is a third mortgage; a second mortgage on one or two lots, and a third mortgage on lots at Flushing, and on property in New Jersey.

Q. How much was the New Jersey mortgage? A. Four thousand dollars.

Q. What was the other? A. Twelve thousand dollars.

Q. The mortgage you have in foreclosure? A. One is \$12,000 in New York, and \$6,000 on Staten Island property.

Q. Are those first mortgages? A. Yes, sir.

Q. Are the foreclosures resisted? A. They were at one time; they have withdrawn it.

Q. So you are to have a sale? A. Yes, sir; it is advertised now.

Q. You know the property? A. Yes, sir.

Q. What, in your judgment, is it likely to produce?

Mr. McGUIRE—Mr. President, I object to that.

Q. What is it reasonably worth above the mortgages? A. I think the \$15,000 one is worth that amount; I don't think the \$6,000 one is the Staten Island one.

Q. Are there any other items? A. There are \$10,000 of North Carolina bonds that are worthless; I am informed the law under which they are issued has been declared unconstitutional; there has been another mortgage wiped out.

Q. How was the other mortgage wiped out? A. It was a third mortgage on leasehold property.

Q. How large was the amount of that mortgage? A. Twenty thousand dollars; it was on Forty-fifth street, I think, just in the rear of the Windsor hotel.

Q. Who was the mortgagor? A. Mr. Rodgers.

Q. What Rodgers? A. The president of the bank—the secretary.

Q. Was he president of the bank at the time it went into the receiver's hands? A. Yes, sir.

Q. Came in in January? A. Yes, sir.

Q. Did you look among the assets to see if there was a Yonkers bond of \$10,000, a bond that, according to the books, ought to have been there—the Yonkers bond? A. I do not remember.

Q. Did you notice at the time that the books indicated \$10,000 in bonds of any kind? A. My recollection is there was \$12,000 deficit of bonds; I think they were Brooklyn bonds.

Q. They were good, then, if they were Brooklyn bonds; did you trace by the books how long that deficit had been standing there of those bonds? A. No sir, not how far back; my recollection of the matter is those bonds were given to some of the trustees, who gave mortgages for more than the amount they promised to give, and took back bonds in exchange; for instance, I think the \$6,000 mortgage Mr. Loutrell was on for \$5,000, and he took \$1,000 either in cash or bonds and gave a \$6,000 mortgage.

Q. That was a second mortgage? A. No, sir, that was a first mortgage.

Q. From your whole view of the matter, and as an expert in the matter, I would like to have you give your judgment about how much more dividend you expect to get out of these assets? A. It would depend entirely upon what I would realize from these two mortgages; I propose to pay between ten and fifteen per cent; it would take about \$20,000 to pay a ten per cent dividend.

Q. Do you know where this President Rodgers is? A. I do not, sir.

Q. Have you seen him since you were receiver? A. I saw him immediately after my appointment several times.

Q. After that you have not seen him? A. No, sir.

Q. Has he left the country? A. I was informed he had left the State; yes, sir.

Cross-examination of *Mr. French* :

By Mr. McGUIRE :

Q. Where is this mortgage made by Rodgers; the \$20,000 mortgage? A. It is in the trust company.

Q. What is the date of it? A. I do not remember.

Q. Did you ever know the date? A. I saw the mortgage; yes, sir.

Q. Did you look at the date especially? A. I do not think I did; I do not remember that I did.

Q. Was it an old or recent mortgage? A. I think it was not a recent one.

Q. Give us the fact upon which you base your judgment that it was not a recent mortgage? A. Because I think it was given after 1873, or about the time the interest—the interest-bearing trustees' bonds were given in after that.

Q. Do you know these interest-bearing bonds were given in 1871? A. I find the interest-bearing ones were given in 1873, and the non-interest bearing ones in 1870 or 1871; I mean the trustee bonds; there were two bonds.

Q. That came into your possession? A. One I know did; I think two; yes, sir, one of them was for \$45,000, I think, and the other for \$10,000.

Q. Where did you get the \$45,000 bond? A. I think I got it at the bank; either at the bank or from Mr. Ellis at that time; I got it that time he met me there; I got it at the bank building.

Q. Did you get the other one of Mr. Ellis? A. I got that at the same time, whether I got it from him or not.

Q. What has become of those bonds? A. I put them in the trust company.

Q. Have you made any effort to collect them? A. I have collected the greater part of the second series.

Q. How much of them have you collected? A. Forty-six thousand five hundred dollars of them I have collected.

Q. What has been done with the balance? A. They are in suit, all but one; that is McVie.

Q. Why has not that? A. I am informed that he is entirely insolvent.

Q. Are those several or joint bonds? A. These are several; they are separate bonds all of them; all separate instruments.

Q. The \$45,000 bond; the obligors were only severally bound for a certain amount? A. Yes, sir.

Q. Not jointly bound for the whole? A. No, sir.

Q. How many bonds in all — say \$45,000 — how many had you besides the \$45,000? A. I can tell you just how many I had by referring to a paper; I have referred to the paper and find that there are twenty-one bonds and mortgages; those are separate bonds.

Q. What was the whole amount of the personal bonds that came into your hands? A. Fifty-three thousand five hundred dollars; those separate bonds were \$51,500; they were given in the place.

Q. And the original instrument afterwards came into your hands? A. No, sir; before they came into my hands.

Q. I do not understand you; you have one bond of \$45,000? A. Yes, sir.

Q. You did not have twenty other bonds to make up the \$5,000?

A. There were twenty-one separate bonds given by different trustees, amounting in all to \$51,500.

Q. Then you had to have twenty-one; one bond for \$45,000? A. No, sir.

Q. The second series of interest-bearing bonds were given to take up the first bonds? A. There was one bond of \$45,000 which did not bear interest.

Q. There were separate bonds given in place of the \$45,000 bonds? A. Yes, sir.

Q. You understood there were more personal bonds than \$51,000?

A. There was \$2,000 more standing in the name of the men who were on the original bond who did not give second bonds; that made \$53,500.

Q. Your experience, then, as receiver has been that the personal bonds were more valuable than the mortgages? A. Yes, sir; they were the larger part of the assets.

Q. The best and the most valuable part of the assets? A. Yes, sir.

Q. Can you tell us, Mr. French, how many mortgages you have collected? A. Yes, sir; do you wish to know the number?

Q. What is the amount received; the whole amount of all the mortgages? A. Thirty-six thousand nine hundred and eighty-six dollars and twenty-four cents.

Q. Were these mortgages paid voluntarily or by suit? A. Nineteen thousand nine hundred and thirty dollars and twenty-four cents were paid voluntarily.

Q. How much by suit? A. Seven thousand and ninety-four dollars and twenty-four cents, and one piece of property I bid in; a \$2,000 mortgage I bid in at \$7,000, and still hold it as receiver.

Q. Was this amount received upon mortgage sale? A. Three thousand of this amount; all else of the amount I spoke of as having collected.

Q. Are the amounts in the mortgage realized upon the sale? A. No, sir; in one case.

Q. Take the first one there; what is the amount of the mortgage? A. A \$9,000 mortgage I realized \$5,000 for; that was sold.

Q. For \$5,000? A. Five thousand and thirty dollars and seven cents; that I received after deducting the costs and taxes.

Q. The second one? A. That is the \$5,000; I realized \$2,023.21.

Q. The third one? A. A \$2,000 mortgage; that I bid in for \$700.

Q. That was a \$2,000 mortgage? A. Yes, sir.

Q. That property you bid in yourself as receiver? A. Yes, sir.

Q. And you hold it as receiver now? A. Yes, sir; there is another one that was foreclosed when I was appointed and the sale had; a \$2,500 mortgage; I received \$30.09.

Q. Go back a little; the first mortgage, the \$9,000 mortgage, upon which you received \$5,000 and over, what was the amount of the bid? A. Six thousand dollars.

Q. How much the expense? A. The taxes were the difference between \$6,000 and \$5,033, a little over \$900; \$967 is the expense of the foreclosure and taxes.

Q. How much without the taxes? A. I cannot tell without looking at my book.

Q. Can you tell us how much you paid counsel for foreclosing that mortgage? A. I paid nothing but the taxable costs; I think there was an allowance by the court.

Q. That hardly answers the question? A. I do not know the amount; I do not remember.

Q. How much was paid counsel for the foreclosure of that mortgage? A. I cannot tell without referring to my books.

Q. How much was the extra allowance? A. That, I don't know, sir.

Q. What was the amount of the bid in the second case? A. Three thousand dollars.

Q. How much was paid over to you? A. Two thousand and twenty-three dollars and twenty-one cents.

Q. What was the amount of the expense of collection of that? A. I cannot tell you.

Senator LOOMIS — Mr. President, this class of testimony has been ruled out once in the case of the Third Avenue Savings Bank, on an objection raised by the Senator from the Thirteenth; I do not see why the objection should not continue here; I cannot see the necessity of calling the superintendent to an account; it can make no difference with the superintendent whether he is bid this amount or that and the expense of foreclosure or legal procedure; it does not affect the Bank Superintendent; it is a matter they have nothing to do with, it seems to me; I raise the objection again.

Mr. McGUIRE — Mr. President, I understand the Senate to have ruled, that they will hear proof of the amount of assets received by the receiver, and they have uniformly ruled upon the several objections we have taken to that class of proof; it is admitted, as I understand the presiding officer of the Senate, upon the ground, as proof tending to show the character of the assets. Now, Mr. President and gentlemen of the Senate, suppose that the mortgage of \$6,000 — following up the line of proof, and the reason that the presiding officer gives for its admission — suppose the mortgage was given for \$6,000, and on the foreclosure of that mortgage \$7,000 was received; and then suppose, Mr. President, that the person managing the sale only paid \$3,000 to the receiver and retained the \$4,000 for expenses, and now a proof is admissible to show the net proceeds received by the receiver, and the dividend which the receiver makes, founded upon these receipts, if that is material — and I am willing to concede that we have been insisting all the while that it is immaterial — but, if it is material, Mr. President, isn't it likewise material to see that the property upon a forced sale brought the whole amount of the mortgage and the deficiency between the mortgage and the receipt by the receiver be caused by the absorption of persons that are employed to collect. If one class of testimony is material, it seems to me, sir, that the other is also material. It should not go to this Senate, I submit, Mr. President; it should not go to the public that their bank was receiving mortgages upon property where the property was not worth the amount of the mortgage, and the superintendent be held for a dereliction of his duty

in not knowing that fact when this class of proof that we offer is shown or tends to prove that the property was worth the amount in excess of the mortgage taken by the bank. I submit, sir, as the Senate has allowed it in one case, in justice to the respondent, it should allow it in the other other.

The PRESIDENT — The counsel for the respondent asks the witness the amount of costs paid to the plaintiff's attorney upon the foreclosure of the mortgage in question.

Mr. McGUIRE — Mr. President, allow me to state that it is hardly the precise question ; I ask the witness the amount of the bids and the character of the proof is to show the difference between the bids and the amount paid over to the receiver, without any reference to whether a lawyer pocketed or whether some intermediate party pocketed it.

The PRESIDENT — The Chair will submit the question to the Senate.

Senator HARRIS — Mr. President, I understood the counsel for the respondent to ask the witness in the first place what was the amount of the bid for the property, and the witness answered the question and then the counsel's question was, what amount of costs had been retained, and upon that the Senator from the Twentieth raised the objection. Now, in my opinion, the objection is perfectly tenable. It makes no difference in this investigation as to what the receiver did with the money after he received it ; whether he allowed it all to be absorbed by the attorney, or whether he pocketed it himself. That first question of the counsel for the respondent is deemed to be material, and the witness answered the amount of the bid ; but the inquiry of what has become of the amount received is entirely immaterial to any issue which we have before us ; and upon that very question as the Senator from the Twentieth has stated, the Senate has already passed judgment in the Third Avenue Bank case, I think. Of course, I agree with the counsel upon both sides that the question in regard to the value of property that was received by the receiver — the question in regard to what property he received, and its value — is material ; but what the receiver has done with it is entirely immaterial, and if we should go into the trial of their receivers, whether they have executed their trust properly and honestly, we may stay here the balance of the year. Therefore, I think the objection is a good one, and should be sustained.

The PRESIDENT — The chair understood the question precisely as the Senator from the Thirteenth has stated ; but, after it was put, the counsel for the respondent has changed it, so that the question is now a different one before the Senate.

Mr. CHAPMAN — I understood the Senator from the Thirteenth to say that the counsel on both sides were right in conceding the want of materiality of the evidence showing what was realized upon the property.

Senator HARRIS — I did not state so. I did not make that statement, Mr. President.

Mr. CHAPMAN — What did you state ?

Senator HARRIS — I stated this, that it is perfectly proper, in my judgment, and as I understood the counsel for the people and the counsel for the respondent, concede that it is perfectly pertinent to inquire into the value of the assets of the bank when it went into the hands of the receiver ; but what has become of the assets, whether the receiver received or lost them, or allowed the property to be sold at a nominal price is another question entirely, but the value of the assets when the bank failed, I think, is material.

Mr. CHAPMAN — Even on that proposition, the counsel for the respondent does not wish to be understood as conceding, I do not suppose as far as the investigation is concerned, that it makes a particle of difference, that it ought to make a particle of difference — as to what the actual value of the property was even at the time it went to the hands of the receiver. Why ? The superintendent is not responsible for the value of the property that may have been taken by the bank years previously, or upon its mortgages which may have been taken by the bank years previously, when the value of that property was double or treble what it was when it went into the hands of the receiver. Indeed, the receiver may not have been appointed, and, in several instances, he was not appointed, for months after the bank was handed over to the Attorney-General. Plenty of time, sir, in these days of depreciation of value, for values to have materially changed from the time the superintendent handed it over to the Attorney-General to the time when the property went into the hands of the receiver ; and even supposing the very next day Mr. President, after the superintendent handed the bank over to the Attorney-General, even then, if you can get at it — and that is putting it away beyond the ground we are required to occupy here — but even then, if you propose to prove the value as it then was, we insist that then it is material. It is not, I submit, Mr. President and Senators, what the actual value of these properties are under the statute under which the superintendent was acting. He was only required to act when it was made to appear to him that the property had not the value which was reported to him by the examiner. He sends an examiner out to examine a bank. The examiner hands him a report. What knowledge has he as to the value of that property contained in that report ? No knowledge under heaven ; and I submit it is not possible for him to have any knowledge of all the property held by the savings banks in the State, except such as is returned to him by his examiners. He takes the report of the examiners and he finds there are so many bonds and mortgages returned as worth so much. He has not seen one of them. It is not possible

for him to see one-tenth part of the bonds and mortgages held by the banks throughout the State. Here are 400 different institutions under his control, and if the Senate should hold him to the rule that he is responsible for the value of every piece of property upon which there is a mortgage, and that he is bound to know the precise condition of every piece of property upon which there is a mortgage—if any superintendent is held to any such rule as that, then, sir, I submit you are asking of him the powers of omniscience. It is a practical impossibility for him to do any thing of the kind, and the Legislature, in the wording of the act, covered this very ground, when they used the expression, “Whenever, by the examination made by the examiner, it shall appear to the superintendent,” so and so.

Now, sir, when his examiners go out and make a report to him, that is all the information he has upon that. Then, sir, he can only act upon that information thus given to him. I concede, Mr. President, that it is very easy to say the superintendent of these banks ought to know the precise value of every particle of property, of every dollar of stock, of every single piece of every kind of property that is held by these banks. That is very easy, sir, as a proposition to make but is it practically possible for any man to know any thing of the kind?

I submit, therefore, Mr. President, that it is not sufficient simply to prove the value. You must first, before you fasten this upon the superintendent—I submit you must go further than that—you must have something to show that it has been brought to his attention, so that it has appeared to him that the property is otherwise than what is contained in the report of his examiners. I do not intend, Mr. President, to argue this question, or this branch of it, here, but the position taken by the Senator seemed to me to require that I should say a word in regard to it.

As I said a little while ago, it is always unpleasant to raise any objection or to take any issue with a member of the court. It only places counsel in an embarrassing position and only tends to awaken antagonism; but, still, when the Senator from the Thirteenth suggested that we conceded that proposition, or that he understood that we conceded that proposition, I wished that my protest should be entered against its being considered in the nature of a concession, so that it would not be accepted by the Senators as being a fact that we conceded those things.

The PRESIDENT—The chair understood the question put by the counsel for the respondent to the witness—what amount of costs he had paid the attorneys upon the foreclosure; to that the Senator

from the Thirteenth objected, and the chair will be obliged to sustain that objection, because the Senate has already done so. Now, I understand the question is changed to the amount of the bid; that question has already been answered, and what further question the counsel was about to make, and upon which an argument was to proceed, I did not hear.

Senator HARRIS — Mr. President, I think I owe it to myself, I owe it to the Senate, to say this, that the counsel has wandered entirely from what I stated; I desire to state this here at once, that I said nothing whatever, in any manner, by which any Senator or any person in my hearing, could infer that I was going to charge or that anybody was going to charge the superintendent with the value of property; I made no such allegation as that; it is not in that view that the value of property at the time of the failure of the bank is proper as testimony. It is to inform ourselves as to the actual condition of the bank, by which we can make up our judgment, and that is all. No one—no Senator, claims, as the counsel has seen fit to suppose, that the superintendent is chargeable with this property at all; and the counsel, in that case, wholly and entirely misapprehended the position which I take. It is simply that the evidence in regard to the value of the property of the bank, at the time of its failure, is proper, not to charge, of itself, the superintendent, but as one piece, as one of the parts of proofs by which the Senate can inform itself and render judgment as to whether there has been any negligence, any culpable negligence, in prosecuting to a receivership an insolvent bank, and that is all. Now, let me illustrate it right here by this case. It would seem that there was some \$58,000 of bonds and mortgages. As I understand the witness, only \$51,000 of bonds and mortgages came into his hands; where was the balance? There was reported in the case some \$58,000 of bonds. It would seem by the witness—I am not speaking very accurately, because I have not paid the minutest attention to the evidence—that he received only \$51,000, and yet these reports were made November tenth. Now, what has become of the balance? That is a proper subject for us to inquire; but, when we go beyond that as to what the receiver has done with what he received, whether he has been guilty of pocketing all that he received, whether he has been guilty of paying it out to attorneys, whether he has been guilty of forced sales by which friends bought the property for nominal prices, we have nothing to do with that. That question I understand the Senate to have decided.

The PRESIDENT — Will the counsel for the respondent state the precise question he desires the Senate to pass upon?

Mr. McGUIRE — I was attempting to show the difference between the amount of the bid and the amount received by the receiver

That was the question. What was the difference between the amount of the bid and the amount paid to the witness?

Senator LOOMIS — I make the same objection to that, because it involves the same question.

The President submitted the question to the Senate whether the proposed testimony should be received; and it was decided in the negative.

Senator WOODIN — Mr. President, I offer the following:

Resolved, That the proof to be offered in the matter of the Third Avenue Savings Bank, the Trades' Savings Bank, and the People's Savings Bank, be concluded, before proceeding to investigate any charges in relation to either of the other savings banks or savings institutions referred to in the Governor's message.

The President submitted the question on the motion of Senator Woodin, and it was decided in the affirmative.

Senator KENNEDAY — Mr. President, I move that the vote just taken be reconsidered and laid upon the table. It seems to me that such an important ruling as that should be in a fuller Senate.

Senator WOODIN — Mr. President, the only reason why I desired the adoption of that resolution was that counsel might prepare themselves for the order of the Senate, to give them until next Monday, providing we adjourn until that time, so that they can arrange their proof to close up the matter in reference to these three banks; but as long as there is no order of the Senate, we shall go along, skipping from one bank to another, and we shall have touched a little here and there upon a half dozen of these charges, without having exhausted the proof upon any one. It is true, and every Senator and all the counsel know very well, that the proper way to try this case is to take one charge in reference to one of the banks and exhaust the proof for and against, and it is only in that way that Senators can preserve any idea of the case — recollection of the testimony, its relation to the case; and it seems to me that that having been the system adopted by the committee who first had the case in charge, that having been the course adopted by the counsel before the committee, that we should follow it, and I am only sorry the Senate did not make an order in the beginning, when we took up the Third Avenue Savings Bank, requiring the people to exhaust their proof and the defendant to make his answer by proof, and if there is any rebutting testimony to be offered, let that be offered. Now, we have three of these cases hanging along by the gills, and the testimony not complete in either, and, unless we make such an order as this, we shall reach the eleventh charge here before the testimony is closed in any one case. It has not been considered by myself whether it means favor to the people or respondent, but it means system and order, and

the only way we can have it is for the Senate to make an order upon this point. We have been now three or four days taking testimony ; witnesses have been subpoenaed here from New York, and we have been astonished, in several instances, to learn, after they got upon the stand, that the very testimony which they were commanded to produce, was in the city of New York, and they had to go back after it ; that has been repeatedly so, and we have skipped along from case to case, and not conclude until we have reached, perhaps, the eleventh charge ; I hope the Senate will make some such order now, or, that we shall promise to make some such order on Monday, so that the counsel will be prepared to adapt themselves to the order, and to proceed with some system.

Senator STARBUCK — Mr. President, the Senator from the Twenty-fifth tells us that his motion means order and the fitness of things. On that subject I have only to suggest that the wisest of men have been a great many centuries in determining what is the proper order to take. The Senator from the Twenty-fifth has had great experience in the administration of rules that are the outcome of such experience upon. Many Senators here have had like experience, and I confidently ask them if they ever saw an attempt to disregard these rules which did not result in the defeat of its own professed object. I think if the motion of the Senator from the Twenty-fifth is adopted, it will only result in the consumption of more time. The wise rules are that an accused person — accused of debt, accused of malfeasance, accused of misconduct — is brought to the bar for investigation or trial. The accusing party, be he the claimant of the debt, the prosecutor for the State, the district attorney, — whatever relation he occupies, — is called upon to exhaust his proof upon the indebtedness in one case, malfeasance or guilt in the other (or guilt), and when the prosecutor is prepared to say, "I have exhausted all my proof upon the subject," then the defense of the adverse party begins. Here as it has been suggested by the Senator from the Twenty-fifth, are eleven banks to which reference has been made. The recommendation of the Governor is that the incumbent of the office be removed. We go through an investigation according to the methods indicated by the Senator from the Twenty-fifth. All the proof is taken upon that subject, as far as applies to these three banks. Then, I infer that the purpose of the Senator is that the Senate consult, and, for the purpose of the argument, I will assume that the Senate determine, having passed this resolution, that the testimony is insufficient on which to respond affirmatively to the Governor's recommendation. Then will the Senator from the Twenty-fifth tell me he proposes to take up the case anew and add one, two or three (more) banks to be examined ? When he tells me that, then he will see just the point of my argument, that

departure from the wise rules referred to tends to prolong a trial instead of abridging it. I think, that this motion had better be reconsidered. It is a very important motion, and the Senate ought not to adjourn to-night, leaving this case in the confusion and uncertainty in which it will be left if this resolution is to stand and not be reconsidered.

Senator WOODIN—Mr. President, the Senator from the Eighteenth is exceedingly astute to scent out the object of motions that may be made, and he surmises, and it is a mere surmise, that when the evidence, in reference to the three banks, has been concluded, that then it is to be followed by some motion or order of the Senate that they go into consultation to decide upon that branch of the case.

Senator STARBUCK—That is the supposition.

Senator WOODIN—That is violent. Now, then, the sole purpose of this order of the Senate is to preserve the evidence upon each charge distinct and separate. Suppose we had this case printed in a book. It is the work of a week to hunt up the testimony in the different cases as it will appear before us, but under this order there would be the Third Avenue Savings Bank for the prosecution and defense, and we would know right where it is; it would be compact; we would take up the next case, and it would be compact; we and the counsel would know right where to turn, and it is a matter of convenience, and it is the only way in which these cases can be tried with any sort of order; and the Senate will be confused and confounded when it comes to have laid before it the bulky volume of the oral testimony and documentary evidence, a little here and a little there, and one shall want a half dozen secretaries to group the testimony together and tell him at least what is proved and what is not proved; it is for convenience and order, for symmetry; that is the only object; it is not with a desire to see that first we take three banks, go into secret session, and try and have a judgment upon them; and if we cannot excuse or convict, then we will go on and try three more. No such thing. The Senator has not scented it out exactly. It is a mere supposition, but violent. We do not propose to do any such thing.

Senator STARBUCK—I desire to ask the Senator a question. Going through these three banks according to this order, does the Senator from the Twenty-fifth assure the Senate that in case of acquittal, he intends to proceed and investigate as to the other banks.

Senator WOODIN—The Senator does not propose to assure the Senate.

Senator MCCARTHY—I rise upon this occasion to express my views that I can understand this case better by the separation of the proof

of each bank by itself; I have had no experience in court, nor have I any experience as a lawyer; but, in a practical, common sense investigation of this matter that is now before the Senate, I can pass a better judgment upon the Third Avenue Bank by the hearing of the prosecution and the defense at the same time, than I can if they all be put into one volume together; the difficulty, I apprehend is, that I shall find it an almost impossible job to get at the facts of this case if they are all put into one volume, but if they are presented to me with the prosecution and defense in each case, I can clearly and distinctly make up my mind.

Senator KENNEDY—Mr. President, I desire to say but a word, sir. I did not intend to argue the question. I admit there is a good deal of force in what has been said by the Senator from the Twenty-fifth. It is a question about which we may differ very honestly, and upon which a great deal can be said in favor of the motion, but it seems to me it will be manifestly unfair at this time, by a vote of nine members of this body to change the ruling. We have thus far acted after very mature deliberation. It was by a full Senate, and by an unanimous vote that the course of conduct which we have thus far observed was adopted. And it seems to me to be unfair, by the small vote of nine members of the Senate against eight, to change this ruling, especially after what has fallen from the lips of the counsel for the respondent and for the State, and, therefore, in a spirit of fairness, and without reference to the merits of the question at all, I hope, my motion to reconsider the vote will prevail, so that it may be taken up at some time when there is a full Senate.

The President submitted the question on the motion of the Senator from the Second, and it was decided in the affirmative.

The Senate hereupon adjourned to Saturday morning, July twenty-eighth, at 10 A. M.

SARATOGA SPRINGS, *July 28, 1877*—10 A. M.

The Senate met pursuant to adjournment, a quorum being present.

Mr. TRACEY—Mr. President, I will read in evidence the following telegram:

“NEW YORK, *Feb. 23, 1875.*

“To D. C. ELLIS, *Superintendent of the Bank Department, Albany:*

“DEAR SIR—I was last night elected president of the board by the bank. I have written particulars.

“C. T. RODGERS.”

Isaac V. French, being duly recalled on behalf of the State, testified as follows :

Q. Did you find among the assets of this bank a deed of some property—banking-house ? A. I did.

Q. State what it was generally ? A. It was a lease for ten years of the building at the corner of Third avenue and Twenty-third street, dated in May, 1872.

Q. So that it run to 1882 ? A. Yes, sir ; it was a ten-years' lease.

Q. What was the rent ? A. Thirty-five hundred dollars for the first five years, and \$4,000 for the last five.

Q. Did you sell that lease ? A. I did not, sir.

Q. State what you found as to its value ? A. I had the premises appraised by two or three real estate brokers and agents in New York, and was informed it was not worth more than \$2,500 a year at the outside. So that I compromised with the landlord. I surrendered the lease and turned over the fixtures to him that were worth about \$500, and paid him rent up to the first of May of that year.

Q. He allowed the surrender of that ? A. Yes, sir.

Q. About how much money was he to pay ? A. One thousand four hundred and fifty-eight dollars.

Q. And the fixtures, they were appraised at about \$500 ? A. Yes, sir.

Mr. MCGUIRE—Mr. President, I propose to ask the witness a question ; I do not know whether it is within or without the order of the Senate, and that is, the expense that the receiver has been, up to this time, in the management of this trust ; I will ask you, Mr. French, what the expense of this trust has been up to the present time ?

Senator HARRIS—That very question was passed upon yesterday afternoon before the session closed.

Mr. MCGUIRE—Mr. President, I regret to be so misunderstood ; we were talking about a particular mortgage last night when we adjourned, and the question was what the expense of a particular mortgage foreclosure was ; that is, as I recollect it ; the question now is a general one as to the expense of the trust in the aggregate ; and I offer it with this view, Mr. President, I suppose that even this tribunal can take cognizance of the fact, that when an insolvent person's property goes into the hands of a bankrupt assignee, or an insolvent corporation goes into the hands of a receiver, that there is in the end but a little portion of the assets to be distributed ; it is all consumed in expense or sacrifice ; that is so generally understood that almost any person knows the fact, and can take cognizance of it. When Mr. Ellis, as Superintendent of the Bank Department, makes efforts to save these weak banks, and not throw them into the hands of a re-

ceiver—knowing that if he does the assets of the institution will be consumed or sacrificed, it would be one of the elements, Mr. President, that would enter into the consideration of his action whether he would, instantly and primarily, order property to be put into the hands of a receiver, or whether he would take other means to see if the institution could not be saved without; and I submit that it would be entirely competent to show a reason or circumstance, or some element that might enter into the consideration of the action of the superintendent as to his action or non-action immediately upon the receipt of this report. It is upon that ground that I offer the evidence.

The PRESIDENT—I suppose it is competent for the counsel for the State to prove here how much the assets realized; that is, with a view of ascertaining what their real value was, and this proof has been such—merely to show what amount of money came into the hands of the receiver. It would then be competent for the defense to show what amount of money has been used in expenses, with a view of ascertaining what the actual amount realized from the assets was. It seems to me, in that view, that the general question, what the expenses were, is competent. I do not suppose that it is competent to enter into the examination of the manner in which the receiver discharged his trust.

Mr. MCGUIRE—I do not ask that, and have not examined as to it from the beginning to this time, and do not intend to ask it.

The PRESIDENT—With a view of ascertaining the real value of the assets, the chair will hold the question to be competent; the general question.

Q. Mr. French, will you tell us, generally, the aggregate amount of expenses incurred in the execution of this trust? A. I cannot tell you exactly.

Q. The approximate amount? A. I can tell you what it was up to the payment of the first dividend; I then prepared a statement.

Q. When was the first dividend? A. In April, 1876; the expenses have been small since then.

Q. I do not care about the items; give the general amount? A. The whole amount, including counsel fees, up to that time, and the amount paid for the last year, \$5,000, about.

Q. The first of April, 1876? A. Yes, sir; March twenty-ninth.

By Mr. TRACY:

Q. Does that figure, which you give, include what you paid for the lease? A. Yes, sir.

Q. How much was that? A. One thousand four hundred and fifty-eight dollars.

By Mr. McGUIRE :

Q. I understand you is was \$500? A. No, sir; it was \$500 cash, and turned over the fixtures in addition.

Q. Can you form any judgment as to the amount of expenses since that time? A. Do you include the cost of the foreclosure suits and the taxes?

Q. I do not care what it is? A. Then I cannot tell you, if those are included, for I have not the items here.

Q. Have you the bills? A. Yes, sir.

Q. You have not made any report since that time? A. No, sir.

Q. If the bills have been rendered to you, can not you tell whether they are \$1,000 or \$10,000? A. they are very much nearer one than ten.

Q. Somewhere ranging between one and ten? A. I should think so; yes, sir.

Q. I want to call your attention, Mr. French, to one of these mortgages, the first mortgage that was foreclosed; where was the property located? A. In West Fifty-second street.

Q. What kind of a building was it? A. A tenement-house.

Q. What was the size of it? A. Twenty-five by — I do not remember; it was sixty or seventy feet deep; one lot.

Q. How many stories to the building? A. I think it was a five-story building; a large high building, four or five stories.

Q. That sold for how much? A. Six thousand dollars.

Q. That was the amount of the mortgage? A. No, sir; the mortgage was \$9,000; let me correct myself; there was a \$4,000 mortgage being foreclosed at the time I was appointed; it had been advertised for sale; that was, perhaps, the first; that was the first piece of property foreclosed; that was sold after I was appointed.

Q. Were there any bidders at the sale of the first piece, of the sale of the tenement-house? A. Yes, sir.

Q. Any more bids than one? A. I think there were three bids; three bids.

Q. Where was the next piece of property that was sold? A. The next piece was in Morrisania, in Melrose; it was a house and lot, twenty-six feet by 100; a small frame house, two story.

Q. What was the quantity of land? A. One lot, twenty-six feet; was a hundred deep, I believe; that sold for \$700; I bid that in.

Q. A frame two story building? A. A story and a-half — a low second story.

Q. You had no bidders for that, so you had to bid it in? A. There was one bid of \$600, and I bid \$700; the next is corner of Eleventh street and Third avenue, Brooklyn.

Q. What was that? A. That was a brick building; brick and wood together.

Q. How many stories? A. Three.

Q. What did that sell for? A. Three thousand and one hundred dollars.

Q. What was the amount of the mortgage? A. Five thousand dollars.

Q. Are you able to state what the bid was? A. Yes, sir; what it was sold for at the sale.

Q. To go back a moment — when was the first mortgage dated; the \$9,000 mortgage, the first I understand to be a \$9,000 mortgage? A. Yes, sir; that was dated the 1st of July, 1870.

Q. That was the property on Fifty-second street? A. Yes, sir.

Q. You were acquainted with the values of property in that locality, in 1870? A. Not very well, sir; I know something about the value at that time.

Q. Did you know the property before you were appointed receiver? A. No, sir.

Q. You know the fact that there has been a large depreciation in the values of real estate in New York, from 1870 to the time of this sale; this sale was in 1876? A. Yes, sir.

Q. You know the fact? A. Yes, sir.

Q. This was being foreclosed? A. No, sir.

Q. I think the first one was in foreclosure? A. The property being foreclosed was still another piece.

Q. On the same street? A. No, that was in Harlem.

Q. Do you not know the fact, Mr. French, that there are no sales for real estate now, in the city of New York, to amount to any thing? A. Yes, sir.

Q. To sell real estate in the city of New York to-day, or at the time this sale was made, would amount to a practical sacrifice of the property? A. Not in this case.

Q. I am speaking generally, not of this particular property? A. It would amount to a great sacrifice of property — great loss.

Q. The point is, whether there is any real market cash values for real estate to-day in the city of New York, as you understand it? A. I suppose there is, sir.

Q. I do not mean occasionally a private sale, where it has been sold upon credit, or dicker, or any thing of that kind, but in the market, cash sales; is it not the fact that there is practically no market cash values for real estate? A. Very much depressed; the market is very much depressed; I do not know as there is any market at all.

Q. And was at the time of the sale ? A. Every thing was low then— very low.

Q. As low then as now ? A. Yes, sir ; I suppose it was.

Q. You then sold the property under the order of the court, I suppose ? A. Yes, sir.

Q. To convert the assets immediately into money, and you obeyed the order of the court in the sale, rather than your own individual judgment, I suppose, Mr. French ? A. I did obey the order of the court ; I do not know what my judgment would have been.

Q. You were acting under the order of the court in the sale ? A. Yes, sir.

Q. To get just what you could at public sale ? A. Yes, sir.

Q. And is that the same as to all of the pieces of property which you sold — the same rule — that there was a depressed market for the sales in real estate, either in New York or Brooklyn ? A. Yes, sir.

Q. You spoke last night of some pieces of property that had a second or third mortgage on ; give that a little more in detail ? A. It was some lots of land in the town of Flatbush, just outside of Brooklyn ; some fifteen or twenty lots I think.

Q. Included in the mortgage ? A. Yes, sir ; included in this mortgage, but prior to this mortgage, on some of the lots were two other mortgages, and on others there were three others.

Q. On some ? A. Some.

Q. On some of the lots this mortgage would be the first lien ? A. No ; on some of the lots a third and some of the lots a fourth lien.

Q. Any of them a second lien ? A. No, sir.

Q. Have these mortgages, prior mortgages, been foreclosed ? A. I think not ; no, sir.

Q. What was the date of that mortgage ? A. Twenty-third of May, 1872.

Q. What was the date of the Brooklyn mortgage ? A. The Brooklyn mortgage the 7th of May, 1874.

Q. What was the whole amount of mortgages that came into your possession ? A. At their face value ?

Q. Yes, sir ? A. Ninety-eight thousand three hundred dollars.

Q. What time were they passed over to you ? A. At or about the time of my appointment ; there were some in the hands of the counsel of the bank when I took possession ; I got them a few days after.

Q. You include all ? A. Yes, sir ; all that I received.

Q. What was in the hands of counsel and what was passed over to you by the officers of the bank ? A. Yes, sir.

Q. State what other property was passed over to you besides \$98,000 of mortgages ? A. Those personal bonds of the trustees.

Q. Those you have mentioned ? A. Fifty-three thousand five hundred dollars, \$10,000 at par of North Carolina, six personal bonds.

Q. What was that? A. Ten thousand dollars of North Carolina bonds.

Q. Face value? A. Yes, sir; \$417.64 in cash.

Q. Your attention was called last night to some Brooklyn bonds, I believe? A. Yes, sir.

Q. Spoke something of examining the books in relation to those bonds—that you could find none? A. There were none when I took possession.

Q. Did you ever look at Mr. Hurd's report of November 10, 1875, to see that there was no such assets, even at that time, of the Brooklyn bonds? A. I do not think I ever did, sir; I received the report.

Q. From the report it shows that there were no such bonds owned by the bank at the time; did you find in your examination whether the bank ever owned any Brooklyn bonds? A. It did, sir; it appeared by their books.

Q. Did you ascertain when they were disposed of? A. The examination was conducted by professional accountants; I saw the books at the time; I was with him; about the 1st of January, 1874, they were disposed of.

Q. And the amount of money that you have mentioned was all the money that you received? A. Yes, sir; except what I received afterward.

Q. At the time—what was the amount of liabilities then? A. I cannot tell you exactly, because there is a difference in the two ledgers; it was about \$192,660.15; the ledgers differ—the depositors' ledger and general ledger.

Q. Have you called in the pass-books? A. Yes, sir; they are not all in.

Q. What proportion of pass-books have you called in? A. I think nearly all have been presented—nearly all in amount in value.

Q. That is, nearly all in amount of money? A. Yes, sir.

Q. I am speaking in numbers of pass-books? A. A large majority of the pass-books.

Q. You have the North Carolina bonds still on hand, have you? A. Yes, sir.

Q. There is no market for those now? A. No market.

Q. How long were you engaged in getting in those pass-books? A. They are not all in yet; they come in now occasionally.

Q. Have been coming in from the time you were appointed receiver until the present time? A. Yes, sir.

Q. Can you form any judgment as to the liabilities of the bank until all those pass-books are in; the actual, real liabilities? A. Not the actual liability; no, sir; not to a dollar.

By Senator ST. JOHN:

Q. In relation to the value of this real estate; I want to know if

this real estate had been sold in 1873, when the bank was found to be insolvent, substantially, whether it would not have brought a better price than it did when you sold it? A. I think it would; I think real estate was higher then.

Q. So that from the time of the discovery that this bank was insolvent up to the time the sale was made, the real estate, in your opinion, had depreciated largely? A. Yes, sir.

By Mr. MCGUIRE :

Q. Mr. French, do you think it is possible for any man to-day to foresee what the market value is going to be a year or two years from now? A. No, sir.

Q. It would be impossible for a man to tell to-day; so take it in 1873—could any one have told what the price of property—real estate—would have been in 1876? A. No, sir; I do not think they could.

Q. There was a possibility of property increasing in value as well as a possibility of a decrease, was not there? A. Certainly.

By Mr. TRACY :

Q. Was there not a general fall in the price of real estate, both for public and private sale, during this period? A. Yes, sir.

Q. Was not also the assessed value of real estate reduced? A. Yes, sir; I believe it was.

Q. In respect to cash sales, is it or is it not usual to give the purchaser thirty days to furnish the ninety per cent of the purchase? A. Yes, sir.

Q. Is it not a very unusual thing in those sales in New York to give back to the seller a mortgage in part? A. Yes, sir.

Q. The purchaser takes his thirty days and negotiates his loan of the professional lenders? A. Yes, sir.

By Senator SCHCONMAKER :

Q. Mr. French, do I understand you to say, that you are not able to ascertain what the liabilities are until all the pass-books are collected in? A. Not accurately, because there is a difference between the depositors' and general ledger of nearly \$2,000; the general ledger shows the amount due depositors to be \$182,422, and the depositors' ledger shows to be due them \$180,638, making a difference of about \$1,800.

Q. Are you able to tell which books are accurate—the pass-books or the bank-books? A. No sir; by comparing the pass-book with both ledgers we get at the true amount due.

Q. If there is a discrepancy between the pass-book, can you tell which is the accurate entry? A. If some error has been made in the

calculation of interest, which is often the case, it can be discovered then.

Q. If the books of the bank are correctly kept, is there any difficulty in ascertaining, without resorting to the pass-book? A. No, sir; if they are correctly kept the interest is reckoned the same way all the time.

Q. The only object of reference to the pass-book is to ascertain whether the bank owes it? A. Yes, sir.

Q. If they are correctly kept the true liabilities are shown? A. Both ledgers ought to agree, and the true liabilities would be shown.

Mr. McGUIRE—You settled with the depositor from his pass-book without reference to any official book? A. As long as his pass-book has not been altered; I compare his book, and if the entries are proper the depositor must be paid from the depositors' book; his pass-book is the receipt of the bank for his money, and he is paid according to that.

Q. You mentioned that the pass-book, or the ledgers, rather, show, one ledger, that there was due depositors \$182,000, and the depositors' ledger showed \$180,000; what do you mean when you state that the liabilities of the bank were \$192,000? A. I took the larger sum, the \$182,000, as the amount due depositors.

Q. That is what we want, the amount due depositors? A. I took the larger amount.

Q. How much do you say the amount due depositors was at the time you took charge of the bank? A. According to the general ledger, it was \$182,422.16; according to the depositors' ledger, it was \$180,638.77.

Q. What other liabilities do you include to make it \$192,000? A. At the time I took possession there was due the internal revenue tax, \$187.14; cash bills, \$38.50; due on the lease, or back due, running to May 1, 1882, say \$1,500 a year in excess of rent, which can now be obtained, \$9,855.35; that was the amount I compromised for.

Q. That you put in as part of the liabilities? A. Yes, sir; when I took possession.

Q. You will see there, Mr. French, that on the tenth day of November, \$196,431.79, is due depositors? A. Yes, sir.

Q. Between the tenth day of November and the time you took possession of the bank it had been reduced to \$182,000, it seems? A. Yes, sir.

By Senator COLE:

Q. I want to know how you account for that discrepancy between the two ledgers? A. By error, principally, I think, in the calculation of interest; I have not discovered any.

By Senator SCHOONMAKER :

Q. Did you find abstract of titles to mortgages ? A. In some cases ; there were not very many.

Q. What was the proportion in the cases in which there was no abstract, and cases in which you found an abstract ? A. I think there were about a third of them we had abstracts, as I recollect now ; the abstracts had been lent in some cases ; we found them with some difficulty afterward.

Q. Do you mean by that there had been no abstracts ? A. I think in all cases there had been abstracts ; that all titles had been certified.

Q. Did you find any certificate of the value of real estate ? A. No, sir ; I don't remember that I found any thing.

Q. Did you find any approval of the loan by a committee of the bank ? A. I did in the minute-book of the bank.

Q. Not in all cases ? A. I don't think I looked in all cases.

By Senator PRINCE :

Q. Do you remember when the panic was in New York ? A. Yes, sir.

Q. In what year ? A. Eighteen hundred and seventy-three.

Q. About September, 1873 ? A. September.

Q. Did I understand you to say that the price of real estate had diminished in New York from, say October or November, 1873, after the panic to the present time ? A. I think it has ; it has in my judgment.

Q. Decreased ? A. Yes, sir.

Q. How much, do you think ? A. I should say at least twenty-five or thirty per cent ; and I don't know but more.

Mr. CHAPMAN — It appears in the evidence we have already.

By Senator PRINCE :

Q. I am asking the difference between the time after the panic in October or November, 1873, and the present time ? A. I think real estate has decreased since then.

Q. Was there a depreciation between July and August, 1873, and October and November, 1873 ? A. Yes, sir, slight ; I do not think it affected real estate very much at that time.

Q. It has affected it more since that time ? A. Yes, sir.

By Senator KENNADAY :

Q. You spoke of a mortgage of \$20,000, I think, on leasehold property ? A. Yes, sir.

Q. That was on Forty-eighth street ? A. Forty-seventh street.

Q. In the rear of the Windsor Hotel? A. Yes, sir.

Q. Is that in the rear of the Windsor Hotel; a brown-stone house?
A. Yes, sir.

Q. Of a very fine character? A. Yes, sir.

Q. Do you remember the date of that mortgage? A. The 1st of November, 1875.

Q. That was the date of the mortgage? A. Yes, sir.

Q. Was that a first mortgage? A. No, sir; it was a third mortgage.

Q. I thought you spoke of a first mortgage of \$20,000, on this property? A. No, sir; that was a third mortgage.

Q. Twenty thousand dollars? A. Yes, sir.

Q. You do not know what the value of the property was? A. It was foreclosed, and brought just about the first mortgage, I am informed.

Q. Do you remember the amount of prior liens on that? A. No, sir.

Q. Have you any evidence of what they were worth? A. Thirteen thousand five hundred dollars, exclusive of interest, the whole amount of prior liens; I do not know how much interest there was due.

Q. Do you know enough of that neighborhood, Mr. French, to know what the values of those houses were, or what they were considered worth two or three years ago? A. I do not remember; no, sir; I think—my impression is—they were selling for about \$10,000 at least; I think it is a twenty years' lease, with two renewals, if I recollect.

Q. Was that without the house? A. Yes, sir.

Q. Do you know what it costs to build one of those houses? A. No, sir.

By Senator ST. JOHN:

Q. Among those papers and mortgages were there any certificates of attorneys or clerks, which went to show mainly that these were on leasehold property — and that they were second or third mortgages?
A. There was only one on leasehold property—the last that I spoke of.

Q. There were others that were second liens? A. Yes, sir.

Q. Was that shown by the papers? A. No, sir.

Q. It was not shown by the papers? A. No, sir; they were assigned to the bank by the trustees.

By Senator WAGSTAFF:

Q. Did the book of the minutes of the bank come in your possession? A. Yes, sir.

Q. Were those liens to trustees of the bank? A. Yes, sir; the liens were actually made, but not all the mortgages; some of the mortgages were assigned to the bank by the trustees.

Q. For what? A. As part of their guaranty fund made up.

By Mr. McGUIRE:

Q. The \$20,000 mortgage you speak of was executed a few days before you took possession as receiver, it seems? A. Yes, sir.

Q. I understand you that the amount of the mortgages that came into your possession was about \$98,000? A. Yes, sir.

Q. I see by the report of the examiner, on the tenth of November, that there was only \$81,000? A. Yes, sir.

Q. Did you ever examine to see or attempt to account for the difference between the amount of the mortgages between the tenth of November and when the bank came into your hands? A. This mortgage that I speak of, the \$20,000 mortgage, was dated on the twenty-third of November, and I do not think it was recorded until some time after; it was at the registrar's office, when I took possession, for record.

By Mr. CHAPMAN:

Q. Do I understand you this \$20,000 mortgage was not in the bank at the time Mr. Reid made the examination in November? A. I do not know.

Q. Was it there when you got there? A. No, sir.

Q. It was at the registrar's office? A. Yes, sir.

Geo. W. Reid, being recalled on behalf of the State, testified as follows:

Examined by Mr. TRACY.

Q. I asked you yesterday if you made both of the examinations of September, 1873, and November, 1875; and, if I recollect right, I think you said in your answer, "Yes, I made them all;" I would like to inquire if there were any others than those two made by you? A. Yes, sir.

Q. That accounts for it at the time?

Q. When was it made? A. In October, 1874.

Q. Who assisted you in making them? A. Mr. Ellis.

Q. Mr. Ellis, the superintendent? A. Yes, sir.

Q. Have you got a copy of it here? A. Yes, sir.

Q. Will you produce it? [Witness produced it.]

Q. Was this filed in the department, this examination of 1874? A. I do not know.

Q. To whom did you deliver the original papers? A. I was under the impression that I gave Mr. Ellis a copy.

Q. You and Mr. Ellis went to the bank on that occasion, did you? A. Yes, sir.

Q. Did you look carefully into the affairs? A. Certainly.

Q. With usual vigilance? A. Yes, sir.

Q. Mr. Ellis assisted you in the work? A. Mr. Ellis looked over; he looked at some of the things; I do not know how close his examination was.

Q. He was present at it? A. Yes, sir

Q. Did you or Mr. Ellis make an entry in the record of the corporation of that thing?

Mr. MCGUIRE — That was not required.

By Mr. TRACY:

Q. I asked whether, in point of fact, he did? A. No, I do not think we did, except to show them how it was; that was all.

Mr. TRACY — I will read this paper in evidence:

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SPECIAL EXAMINATION OF PEOPLE'S SAVINGS BANK OF NEW YORK, *October 9, 1874.*

INVESTMENTS.	Rate of Interest.	Amount at par.	Rate.	Revenue.	Totals.
Bonds and mortgages.....	7	.....	....	.....	\$123,300 00
Call loans on savings bank books, etc.....	7	.....	....	.....	4,400 00
Missouri State bonds.....	6	\$20,000 00	95	\$19,000 00	
North Carolina State bonds.....	6	10,000 00	12½	1,250 00	
Brooklyn city bonds.....	7	12,000 00	103	12,360 00	
Yonkers city and town bonds.....	7	10,000 00	100	10,000 00	
Safe, fixtures and lease.....	....	.....	....	.....	42,610 00
New bonds of trustees \$50,000 and interest for one year, \$3,535.....	....	.....	....	.....	10,000 00
Cash in safe.....	....	.....	....	.....	54,035 00
Cash Eighth National Bank.....	....	.....	....	\$2,254 68	
Cash Second National Bank.....	....	.....	....	400 00	
Cash Manufacturers and Merchants' Bank.....	....	.....	....	108 16	
Cash bank of Metropolis.....	4	.....	....	63 39	
Cash Bull's Head Bank.....	4	.....	....	4,048 30	
Interest accrued.....	....	.....	....	4,448 66	11,323 19
				.....	4,410 00
					\$250,078 19

Due depositors.....	.....	.....	.....	\$244,365 59
Interest accrued.....	.....	.....	.....	3,070 00
Due Bank of Metropolis (Brooklyn city bonds collected).....	.....	.....	.....	10,000 00
				\$257,435 59
Deficiency of assets.....	.....	.....	.....	\$7,357 40
INCOME.				
Bonds and mortgages.....	7	123,300 00	.....	\$8,631 00
Call loans.....	7	4,400 00	.....	308 00
Yonkers and New York (balance).....	7	12,000 00	.....	840 00
Missouri.....	6	20,000 00	.....	1,200 00
Cash in bank.....	4	8,500 00	.....	340 00
Bond of trustees.....	7	54,000 00	.....	3,780 00
				\$15,099 00
CHARGES.				
Interest to depositors.....	.....	.....	.....	\$12,000 00
Salaries, etc.....	.....	.....	.....	7,500 00
				19,500 00
Deficiency of income.....	.....	.....	.....	\$4,400 00

Q. Did you see these new bonds of \$50,500? A. Yes, sir.

Q. Were they the bonds made by the trustees? A. Yes, sir.

Q. Did you make any other examination besides this? A. No, sir, except to go in, as I do frequently to other banks, just to look over the books a little, but no regular examination; I have always been in the habit of stepping in frequently to the New York banks, but not a regular examination.

Q. Do you recall what the date of those bonds were of the trustees — the new bonds? A. I do not.

Q. Was that in one day, or more than one day's examination? A. One day, I think; I do not think it would take longer than that.

Q. You got somewhat familiar with the documents? A. Yes, sir.

Q. Mr. Reid, do you know any thing about the settlement of that first suit of 1873? A. Nothing at all; I know nothing about the interior working of the department.

Q. You were not conferred with about it by the Attorney-General or any one? A. Not all.

Mr. McGUIRE — We will not ask witness any questions now; we will recall him.

By Senator GERARD :

Q. You are professionally connected each time that you make an examination? A. I am the regular examiner of the department, and go to these banks, as I collect the time, once in two years.

Q. Are you appointed for each occasion under a special commission by the superintendent? A. Yes, sir; that is merely to keep the record; I very seldom show them; I have not shown a commission in two years, I think.

Q. Has Mr. Ellis had the power to appoint the examiner, and the power to displace the examiner and get another? A. I have always understood so.

Q. He has? A. Yes, sir.

Q. Then you have been retained in your position and made these examinations under the commission of Mr. Ellis from time to time? A. Yes, sir.

Q. And by his consent, and with his knowledge, as an examiner? A. Yes, sir.

Q. You say you do not always receive a special commission for these banks? A. I generally have, but I very seldom use it.

Q. Emanating from the department? A. Yes, sir.

Q. In each special case? A. Yes, sir.

Q. When you made this examination with reference to this bank was this a special or a regular examination? A. This was a special examination.

Q. What caused it to be a special examination, some notice to the bank department? A. No, sir; Mr. Ellis was in New York at the time and we concluded to go up and examine it.

Q. What facts of this particular bank — what put you upon suspicion of inquiry at that time? A. I do not know, it may have been at Mr. Ellis' suggestion.

Q. Therefore there were some facts that induced a special inquiry in reference to the People's Bank in 1874? A. I presume so.

Q. Otherwise you would not have made it until the next year? A. No, sir.

Q. You went down there with Mr. Ellis, at what time of the year? A. October 9, 1874.

Q. What process was gone through by you and Mr. Ellis, with reference to the examination of the People's Savings Bank in October, 1874; you went to the bank and you called upon the officer? A. Yes, sir.

Q. And saw the list of securities or assets in a certain book in the bank? A. Yes, sir.

Q. Do they have a ledger account of their assets? A. Yes, sir.

Q. You examined the bonds and mortgages? A. Yes, sir.

Q. You found certain bonds and mortgages rated to the bank at certain figures? A. Yes, sir.

Q. What did you do in connection with your examination of those bonds and mortgages; who brought them to you? A. Mr. Rodgers brought them out of the safe; they were in the safe, and Mr. Rodgers brought them out.

Q. Was Rodgers an official, or a clerk? A. At that time, I think, Mr. Rodgers was secretary; he was president afterward.

Q. And had the custody of these papers? A. Yes, sir.

Q. Do you remember how many there were? A. No, sir.

Q. About how many? A. That I do not know.

Q. Does the report show the actual number? A. No, sir; it does not.

Q. Were there more than a dozen or twenty? A. I should think over twenty, because in November, the next year, when I made it, there were sixteen.

Q. Do you remember how many were present at this examination? A. I think there was no one present except Mr. Rodgers, Mr. Ellis and myself.

Q. Then those bonds and mortgages were brought out of the safe, and were they opened? A. I think probably they were; I had seen most of them two or three times before.

Q. Therefore you do not remember whether they were opened, or

looked at the outside? A. My custom is always to examine the new ones, critically, taken since my last examination.

Q. Do you remember, in this case, whether you examined the contents of the bonds and mortgages to see whether it was on leasehold property or not, or whether it was given by an official of the bank or not, or any thing else in connection with it other than that there was a bond and mortgage for a certain sum? A. I think there were, at that time, a few mortgages given by the trustees to make up the deficiency.

Q. Those were new ones? A. Yes, sir.

Q. Did you examine whether they were first, second or third? A. I do not know that I did; I am not certain.

Q. Was there any abstract of title showing whether the mortgages given by the trustees were first, second or third? A. I do not think there was.

Q. Did you require that; did you require any affidavit? A. I do not think I did at that time.

Q. At any time? A. We did afterwards at my other examination.

Q. When was that? A. In 1875.

Q. When the bank was closed? A. Yes, sir.

Q. In 1874 you took these mortgages, as good mortgages, representing in value the amount claimed by them, without knowing whether they were first, second or third, or whether they were on leasehold property; is that so? A. As far as I know they were first mortgages.

Q. As far as you ascertained then? A. Yes, sir.

Q. Took them without any inquiry? A. That I do not remember.

Q. You do not remember that you did? A. I do not.

Q. Do you know now, as a matter of fact, whether any of those trustee mortgages were first, second or third, or whether they were on leasehold or other property? A. I do not know whether there were any second or third mortgages in this batch.

Q. In 1874? A. In 1874.

Q. It is against the law to take mortgages on leasehold property by a savings bank? A. Yes, sir; at least I never allowed it.

Q. It is against the law of savings banks to loan to their officers? A. Yes, sir.

Q. Therefore, if a mortgage is given by an official, trustee or other officer connected with a bank as security for a loan, that mortgage would be invalid? A. I do not know that it would be invalid for an officer.

Q. Did you make any inquiry as to what those mortgages represented, or how they were given? A. I do not remember whether I did or not.

Q. How about the "Trade" mortgage; how did you come to pass that from the president without inquiry? A. That was represented to me as the first mortgage.

Q. Represented by whom? A. By the secretary.

Q. You take representations of officers without any further inquiry? A. No, sir; I could not get any thing else; I tried very hard at the time.

Q. You have no further remembrance in case of bonds and mortgages of this particular bank, as to your investigation of 1874, except that you saw the mortgages, and they read for a certain amount, and you did not inspect any certificate of counsel, or any abstract of title, or take any affidavits from any body as to their validity, or as to what their character was, whether first, second or third, or whether on leasehold or other property? A. I don't remember whether at that time we did.

Q. You did not make another examination in 1874, did you? A. Not of this bank.

Q. On that bank? A. No, sir.

By Senator McCARTHY:

Q. Was Mr. Ellis present with you when you made this examination? A. Yes, sir.

Q. Was he present with you when these bonds and mortgages were taken out? A. Yes, sir.

Q. How much of the time was he with you? A. All the time, I think, during the day we were there.

Q. During this time, there was no question raised as to the second or third mortgages, or leasehold property? A. No, sir; we knew they were not allowed to take them.

Q. What about the abstract of titles? A. I do not know what abstracts we saw at that time.

Q. In reference to the new mortgages, were there any abstracts of titles? A. I know they had abstracts of some; my custom is always to look at the abstract and certificate, and if there is no certificate to get a certificate from the attorney.

Q. Was that the fact in this case—that you had either certificate or abstract of title for all these mortgages? A. I do not know whether it was at that time or not; I considered that examination rather informal—not one of my regular examinations, as the superintendent was with me.

Q. Was the examination a truthful and correct examination? A. Yes, sir; as far as we knew any thing about it; it was intended to be.

Q. I desire to know whether the trustee mortgage was to make up

a deficiency or was it for a loan? A. It was to make up a deficiency, as I understood, to take the place of a \$55,000 bond that was at the department; in order to make a change some of the trustees were going on the larger amount—to increase the amount and to make the bonds draw interest.

Q. Was the bond of the trustee and mortgage given to replace that; were they counted as assets together—each one counted as an asset? A. The new bond?

Q. The whole of the new bond, and the mortgage put down as assets? A. Yes, sir.

Q. Was not that a contradiction—that is, wasn't it multiplying the assets of the bank to do so? A. No, sir; if a trustee put in a bond for \$2,000, and a mortgage for \$2,000 in addition, that was not.

Q. Were they both counted? A. They were both counted, and intended to be.

Q. That would make four or five thousand, instead of two? A. That was intended to be—that they were to be put in as security.

By Mr. CHAPMAN:

Q. Not as collateral to the bond? A. No, sir.

Q. If it was collateral had it ought to be counted? A. No, sir.

Q. I understood you to say it was counted? A. I did not say it was collateral; I said it was additional; some of the trustees put in; I know one of them put in an \$8,000 mortgage.

Q. If it was additional, how could it be for the purpose of replacing a bond before? A. I refer now to the \$50,500 put in intending to put in new bonds to take up the \$55,000 bond at Albany; in addition to that the trustees, as I understood it, had or would—I think they had some of them—put in bonds and mortgages in addition to this \$50,000.

Q. And not to replace it? A. Not to replace; the new bonds were merely to replace the one at Albany.

Q. The question is whether the bond and mortgage, as a substitute for the bond, was included in the assets and bond also? A. You misunderstand me; it was additional to the new bond.

Q. You stated that it was? A. I did not mean to be understood so; I did not understand the question.

By Senator BRADLEY:

Q. At the time Mr. Ellis suggested the examination be had, did he give any reason? A. I do not remember; we were talking over the matter of the different banks, and either he or I (I do not remember which) suggested going up to the People's; we had been to the

Mechanics and Traders'; it was when we made the examination at the Mechanics and Traders'.

Q. Were any circumstances referred to in the conversation between you and Mr. Ellis as the reason for making this examination, or why you should make it? A. Only that the bank had been one of those that had been in trouble for some time.

By Mr. CHAPMAN :

Q. One of the banks that you were watching closely? A. Yes, sir; we were.

By Mr. MCGUIRE :

Q. Mr. Reid you have been in the habit of attending courts of justice in the trial of causes? A. Yes, sir.

Q. You have seen witnesses often that misunderstood the question of the questioner, have not you? A. Yes, sir, very frequently.

Q. At times you know of witnesses having to correct statements they make? A. Yes, sir.

Q. By a misunderstanding of any question? A. Yes, sir.

By Mr. TRACY :

Q. In the remarks of Mr. Ellis to you, when this examination was proposed, did he, or did he not, mention the fact that this was a bank that must be proceeded against, and he had had the proceedings stopped? A. I do not think he did.

Q. Did he then, or at any other time mention that fact to you? A. No, sir; I do not think he did.

Q. You were aware that this bank had been proceeded against in 1873, were you not? A. I think I understood that proceedings had commenced, but that is all I know; I do not remember distinctly now whether I ever did.

Q. Did you or not, have the impression that proceedings had been commenced, and had been discontinued? A. I rather think not; I do not recollect now that I ever knew they had been commenced until my official examination.

Q. You found the bank in full operation? A. Oh, certainly.

Q. Under no injunction? A. No, sir.

By Senator GERARD :

Q. What was the authority for examining this savings bank? A. Nothing.

Q. Nothing at all? A. No, sir.

Q. Is that the usual way of examining the bonds and mortgages of

a savings bank as you have stated here ? A. My usual manner is to take the bonds and mortgages ; I generally find with them an application from the borrower, in which he recites the value of the property and how much he wants to borrow on it ; attached to that usually is the certificates of the appraisers, generally some officer, finance committee, or whatever committee has it in charge, certifying as to the value of the property and recommending the loan, and very frequently attached to that is the certificate of the counsel, or very frequently it is separate ; if, at my examination, I find there is no certificate of counsel, I usually get a general certificate to cover all the previous mortgages.

Q. Did you in this case, in the examination with Mr. Ellis ? A. Not at this time.

Q. Why not ? A. I consider this rather an informal examination.

Q. Did you not know there were 'circumstances of very great suspicion depending upon the conduct of the officers of the bank ; would you not have been naturally put upon inquiry, more particularly under the circumstances of this bank ? A. I did inquire about the bonds and mortgages, the value, etc.

Q. You found no certificate of counsel, and you merely took the statement ? A. I do not remember whether we did or not ; I said —

Q. No recollection ? A. No, sir.

By Senator WAGSTAFF:

Q. How much is the bank allowed to loan ? A. Fifty per cent of the value.

Q. At any time did you compare the appraisal with the mortgage ? A. The certificate of the committee I did ; yes, sir.

Q. Always do ? A. Yes, sir ; and usually on the mortgage-book I find the full record of the mortgage and examine it.

By Senator ST. JOHN :

Q. As I understand, the result of your examination at this time showed a deficiency in the assets of something about \$7,000 ; am I correct in that ? A. Yes, sir ; \$7,357.40.

Q. Also a deficiency of income of four thousand four hundred and odd dollars ? A. Anticipated income for the coming year if the bank went on.

Q. I understand that I want to ask you a question, as a man who is supposed to understand the examination of the bank, whether, upon that showing, you regarded that bank as a solvent bank, and a

safe depository of moneys of poor depositors? A. I knew they were not exactly solvent.

Q. Answer me that question ; whether you did, or did not upon that examination ? A. Not with that showing ; no, sir.

By Mr. CHAPMAN :

Q. You had been having this bank under close watch for some little time ? A. Yes, sir.

Q. You not only made your regular examinations, but you made special examinations, and you also went in frequently and looked over the books informally ? A. Yes, sir ; every few months ; that and other banks.

Q. Supposing times had changed at this time, and values of property otherwise have gone up, and deposits had commenced to increase, would there have been any difficulty in the banks going on ? A. Not if they had increased enough.

Q. If they begun to throw in deposits ? A. Yes, sir ; the officers always spoke very hopeful that it would be so.

Q. After this examination, did you continue to keep close watch of the bank ? A. Yes, sir ; I was in there a number of times.

Q. During this year had not the trustees themselves put in some \$40,000 or \$50,000 ? A. I do not know how much.

Q. They had put in their own money, relying upon their confidence in this bank, during that year, quite a large amount of money to carry this bank along ? A. Yes, sir.

Q. And had full and entire confidence that the bank would succeed ?

Mr. TRACY — About their confidence the witness cannot testify.

Mr. CHAPMAN — My idea is your objection is correct.

By Mr. TRACY :

Q. Did you find any evidence that they had put in cash to any considerable amount ? A. I do not know, except as we find from the footings ; it was more favorable than my examination the year previous.

Q. Did not find any evidence they had been putting in their own money and donated it to the bank ? A. Only from the footings.

Q. The footings looked better ? A. Yes, sir.

Q. How much better ? A. It was \$35,000 or \$40,000 ; I think our former examination showed a deficiency of not so much at that ; my deficiency was \$28,000.

Q. How much this time ? A. Seven thousand dollars ; that would make about \$21,000, apparently, better off than they were then.

Q. In making this footing, you put in \$55,500 for the bonds and three thousand dollars and odd for the interest? A. Fifty thousand five hundred dollars.

Q. How much for the interest? A. Three thousand seven hundred fifty dollars, I think it was.

Q. So it made \$54,000 for the bonds? A. Yes, sir.

Q. Fifty-four thousand dollars it made, and in 1873 it was \$55,000; then there was a fraction of a thousand left on the bonds as they were before? A. Yes, sir.

Q. To what amount did you find they had donated mortgages to the company? A. That I do not remember.

Q. Did you understand that the whole donation of mortgages added to what you put on the new bonds, would make more than \$55,000? A. That I do not know; if there were any mortgages at that time, if they had put them on of course it would be added, for I make only a difference of \$1,000.

Q. Did you find any thing to account for the difference between \$50,500 in the new bond and \$55,000 in the old bond; did you find any mortgages there that they had donated to the company that would more than cover that \$4,500 difference? A. I do not know that I examined for that purpose at that time, but I made a special examination at the time the bank was closed in reference to these trustees' mortgages.

Q. At that time? A. At that time I do not know whether we did or not.

Q. Therefore you cannot say that at that time you discovered that the trustees had put in any thing, except to give the new bond in place of the old one? A. From the footings something had been put in in some way.

Q. From observation in the bank you could not discover any thing? A. No, sir.

Q. You remarked to a Senator that you did not get any thing for this examination; how is that, did not you get something for this October examination? A. No, sir.

Q. You were entitled to your pay? A. Yes, sir; but I went up there in an informal way, with Mr. Ellis; we did not charge them any thing.

Q. You were entitled to thirty dollars? A. Whatever I chose to charge them; usually charged them from twenty to twenty-five dollars for a similar examination like this.

By Senator WAGSTAFF:

Q. What was the date of that? A. September 4, 1873; the examination was made by Mr. Smythe and myself.

By Mr. TRACY :

Q. You say, after you found the deficiency, that money was put in by the trustees to strengthen it after 1874, as I understand you to say ?
A. I have understood so.

Q. After October, 1874, that is what you stated just now ? A. The mortgages were put in afterwards, after 1874.

Q. What kind of mortgages ? A. Their own mortgages on property.

Q. To what extent, about ? A. There was one mortgage of a Mr. Hull, or Hall, I think, an attorney of the company, for \$8,000 ; he was attorney and trustee, and the other for \$5,000 ; that I did not count ; that was informal ; the \$20,000 one was put in after my examination.

Q. After your final examination of 1875 ? A. Yes, sir ; it was not there for I examined the bank.

Q. Four or five days before the final examination ? A. I believe so.

Q. Then for the strength of the institution your examination of 1874 consisted of a mortgage of \$8,000 by an attorney at law, and one other that you did not specify ? A. I think there were one or two others.

Q. By the officers ? A. Yes, sir ; there was one of \$3,000.

Q. Did you look at this ? A. Certainly.

Q. Did you submit them to Mr. Ellis ? A. Mr. Ellis was not there at that time.

Q. I supposed new bonds were given between 1874 and 1875, from what you have stated ? A. No, sir ; they were given before the examination in 1874.

Q. I understood you to say, after the examination in 1874, the trustees strengthened the institution by giving money, cash or something else ? A. No, sir ; I did not state that.

Q. Then it was anterior ? A. Yes, sir.

Henry L. Lamb, recalled on behalf of the State, testified as follows :

Examined by Mr. TRACY :

Q. Is there on the files of the department an examination of Mr. Reid, or Mr. Hurd and Ellis of October, 1874 ? A. No, sir.

Q. Of the People's Bank ? A. No, sir.

Q. Has there been one ? A. Not to my knowledge.

Q. Have you ever seen it ? A. No, sir ; not until this morning.

Q. Did you ever hear of it until you saw it here ? A. No, sir.

S. W. Swaney being duly recalled on behalf of the State, testified as follows :

Q. Produce, if you have it, from the files of the Attorney-General, the letter of Mr. Ellis in November, 1875, which was annexed to your papers ? A. I think you have it over there by you.

Q. This is it ; is that the paper ? A. Yes, sir.

Q. Is this the paper which was presented as ground for the Attorney-General's taking his movement in November, 1875 ? A. Yes, sir.

By Mr. TRACY :

Q. I will read a passage and ask a question. Dated November 11. "The total liabilities of the bank were \$200,131.09, the total assets, \$157,351.83, leaving a deficiency of \$42,779.96." I ask you, sir, if those figures now are any different from what they were when the paper was presented ? A. I think not.

Q. That is the letter from Mr. Ellis to the Attorney-General in November, 1875, upon which the Attorney-General finally proceeded to close the bank ; I ask you whether the figures giving an account of the assets and the account of the liabilities and the account of the deficiency, which are in figures, whether they are in the same condition and same figures they were when the paper was presented ? A. I think not ; there has been an erasure here both of the assets and liabilities and deficiency ; if I remember the transaction correctly, it is this ; I took in the complaint to Mr. Ellis to be sworn to.

By Mr. CHAPMAN :

Q. That was after this letter had been received by you ? A. Yes sir ; I drew the complaint and took it in to Mr. Ellis to have it sworn to, and there it was changed, the figures and letters, and I think it was also in the complaint.

Q. Changed to correspond with the figures in the report which Mr. Reid had made ? A. Yes, sir.

By Mr. TRACY :

Q. Those three sets of figures were different when they came to the Attorney-General ? A. I think so ; yes, sir.

Q. What day did you go to Mr. Ellis to get him to swear to the complaint ? A. I do not remember the day.

Q. It was after the eleventh ? A. Yes, sir, after we received it ; the complaint is on file in New York.

Q. Mr. Ellis made this change, or directed this change to be made ? A. I think he did ; I think he was sitting at the desk of his son, and he directed a clerk by the name of Werner to make the change.

Q. Are those Mr. Werner's figures? A. I cannot say, I think they are.

Q. Have you a recollection what the figures were before? A. I have not; no, sir.

Mr. TRACY—I will read Exhibit No. 50, in evidence; it reads as follows:

STATE OF NEW YORK:

BANK DEPARTMENT, }
ALBANY, November 11, 1875. }

Hon. DANIEL PRATT, *Attorney-General*:

SIR.—In pursuance of section 44 of chapter 371, Laws of 1875, I hereby respectfully call your attention to the condition of the "People's Savings Bank" of the city of New York. From the facts officially furnished to me by George W. Reid, an examiner, duly appointed by me to examine into the condition of said savings bank, I find that on the 10th day of November, 1875, the total liabilities of the bank were \$200,131.79, and the total assets were \$157,351.83, leaving a deficiency of \$42,779.96.

I deem it entirely unsafe for this bank longer to continue its business and I therefore recommend that you take the necessary legal steps to close up its affairs.

Very respectfully.

D. C. ELLIS,

Superintendent.

Q. Was that letter, in its first condition, received at its date, the eleventh? A. I cannot say that; I think it was; I do not know whether it was the eleventh or twelfth.

Q. In making up the complaint I suppose your practice would be to annex a copy of the letter? A. No, sir; we embrace the letter right in the text of the complaint.

Q. Were your complaints in a pretty much uniform model? At Yes, sir.

Q. About the same as the other? A. Yes, sir.

By Mr. McGUIRE:

Q. Just look at that paper, Mr. Swaney; I will read from the report of the special examiner of the 10th of November, 1875; the amount of assets, as reported by him, is \$200,131.79; what are the figures on that paper? A. Two hundred thousand one hundred and thirty-one dollars and seventy-nine cents.

Q. In those assets you see it included a deficiency of \$42,779.96; what are the figures upon that paper? A. Forty-two thousand seven hundred and seventy-nine dollars and ninety-six cents.

Q. The total liabilities reported by the examiner is \$200,131.79, what are the figures there? A. Two hundred thousand one hundred and thirty-one dollars and seventy-nine cents.

Q. Four hundred and forty-two thousand seven hundred and seventy-nine dollars and ninety-six cents, and it makes \$157,351.83?

A. Yes, sir.

Q. So the figures of your paper there, as corrected, correspond with the report of the special examiner? A. Yes, sir.

Q. That is all there is of this great alteration of the papers? A. Yes, sir.

By Mr. TRACY :

Q. I would like to ask you if there was any attempted concealment by Mr. Ellis? A. It was to make the complaint accurate when he swore to it.

Q. You read it? A. Yes, sir.

By Mr. McGUIRE :

Q. Directed his clerk to do it in your presence? A. Yes, sir.

By Mr. TRACY :

Q. Nothing secret about it? A. No, sir

By Mr. CHAPMAN :

Q. This paper was in the hands of the Attorney-General, I suppose? A. Yes, sir.

Q. Do you allow them to be tampered with? A. I took him the complaint, and Mr. Ellis desired to have the figures accurate, and it was changed to make it accurate.

By Mr. CHAPMAN :

Q. In Mr. Ellis' examination, as appears in the printed book, the questions are asked him when he sent this letter to the Attorney-General, and when he received it (page 268); the question was there asked: "Q. Mr. Ellis, when did you receive this report, dated November 10, 1875, which has been introduced in evidence? A. I received it the next day, on the 11th of November, 1875. Q. When did you report the matter to the Attorney-General, for his action, to close up the bank? A. On the same day. Q. The records of your office show that fact, do they? A. Yes, sir." Now by the records of his office it appears that this letter is dated November eleventh, the next day after the date of the report of November tenth. Now, all this is for the purpose of showing that this report, which appears to be filed November thirteenth, could not have been the report on

which he wrote the letter to the Attorney-General. It appears in evidence already that he received on the eleventh a letter from Mr. Reid, stating deficiencies, not to the full extent contained in this report. The inference is that he swore false in regard to this.

Edgar A. Werner, being duly sworn on behalf of the State, testified as follows :

Examined by Mr. TRACY :

Q. Are you a clerk in the Bank Department ? A. Yes, sir.

Q. Look at the letter-book, page 511, to a letter of September 11, 1875, of Mr. Ellis to Attorney-General Pratt, which has been read in evidence ; in whose handwriting is the text of that copy of the letter ? A. Charles S. Ellis.

Q. He was a clerk in the department ? A. Yes, sir.

Q. In whose handwriting are the figures that are there ? A. They are in mine.

Q. Are those figures of yours the same figures that were there before ? A. I could not say.

Q. Did you erase figures to write those in ? A. I should think so ; I am not positive.

Q. Does not the inspection of the book show the figures have been erased ? A. Yes, sir.

Q. Others written ; does the face of the paper show the figures have been erased ? A. Yes, sir.

Q. Does the face show the present figures have been written over the erasure ? A. Yes, sir.

Q. They are your figures ? A. Yes, sir.

Q. Who gave you the figures to put that in by ? A. I could not say ; I do not remember.

Q. Who directed the change to be made in the copy ? A. I could not say ; I have no recollection of the transaction.

Q. Do you remember when you did it ? A. I do not.

Q. Did you do it without any orders ? A. I do not recollect ; I am confident I had orders to do it if I did it.

Q. You know you did it ? A. Yes, sir.

Q. You are confident you had orders, but you cannot say from whom ? A. I cannot.

Mr. TRACY—Mr. President, in this case we are not able to present a witness now, or other testimony to-day. We have some further evidence we desire to give that is to be brought from a great distance, and we are delayed about getting it in spite of all our efforts.

The PRESIDENT—Go on with the next case, Mr. Tracy.

Mr. CHAPMAN — Do I understand that all these cases are to be left open for the calling of additional witnesses until we get down through?

The PRESIDENT — It is no part of the duty of the Senate to interfere with the counsel for the State as to the matter; have the counsel for the respondent any suggestions to make?

Mr. CHAPMAN — The only objection I would make would be this, and that is the same suggestions made by Senators around this circle; something to this effect, that it was mixing testimony up by going from one case, after introducing a little evidence, to some other case, and then introducing evidence, and then taking up the first case and introduce a witness, and so on.

The PRESIDENT — It would be impossible for the chair to make a direction controlling the action of the counsel; if the counsel wishes to make a motion, the chair will submit it to the Senate.

Mr. CHAPMAN — I only desire to make the suggestion; I cannot go any farther than that.

Mr. TRACY — We now take up the case of the Mechanics and Traders' Bank.

The PRESIDENT — It may be well enough for the chair to state the situation of the motion considered adopted last evening; in the opinion of the chair, the motion to reconsider having been laid upon the table, the original motion is also on the table, and is, therefore, not operative; a motion to table or reconsider carries the original motion to the table.

Henry L. Lamb, being duly recalled on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. Please produce the examiner's report of the Mechanics and Traders' Bank, of March 21 and April 1, 1874, with the letters?

Senator LOOMIS — Mr. President, a large number of the Senators are absent, and I know personally of a large number of them who desire to return to their homes to-day and return here on Monday, and therefore I move the Senate do now adjourn to Monday afternoon at four o'clock.

Senator GERARD — I move to amend that motion by changing it to this afternoon at four o'clock, and also that such Senators as desire to go home be allowed to do so. There is no reason at all why those who can remain should not go on, and those that leave do so under very great pressure, and therefore those that remain should go on with the investigation; all this matter of evidence will be put in print, and there will be no prejudice by the absence of two or three Senators, because all knowledge can be obtained by reading the testimony

after they return. I trust the motion of the Senator will not prevail. I move that we take a recess to four o'clock.

Senator BIXBY — It is so eminently proper and just that we should adjourn, that I hope the motion of the Senator from the Twentieth will be adopted.

Senator GERARD — I would ask a call of the Senate to ascertain whether there is a quorum present at all.

Senator KENNADAY — It is not material, because if there is not a quorum the Senate will have to adjourn. It would be pleasant for me to return home, and if a number of gentlemen desire to go home while I propose to stay here, I think their request should be granted. I have no objection to giving them that privilege, while I intend to remain here.

Senator GERARD — Mr. President, we are here in the performance of a great public duty, a duty to the public, and a duty to the gentleman whose official conduct is now under investigation, and no small things should deter us from the performance of that duty; I do not know how many gentlemen are of the mind of the Senator of the Twentieth; he seems to think there are numbers of them; there are a very great number who wish to continue to perform their duty and get through with it, and no outside considerations, except of a very extraordinary character, urgent necessity, should cause an adjournment, and I think it would read very badly, and appear very badly to the public if this Senate gives up two working days, Saturday and Monday, for the mere convenience of the Senators; there is no reason why we should go home; no notice will be taken of it; we can proceed with or without a quorum; the testimony is very much a matter that is written — of record, and I do not think there is any necessity — there is certainly not a propriety in the adjournment of the entire body for the convenience of a few, therefore I trust the motion to amend will prevail.

Senator HARRIS — I move as an amendment that when the Senate adjourn at two o'clock they adjourn until ten o'clock Monday morning.

Senator GERARD — I am willing to accept that.

The PRESIDENT — The chair will then put it upon the motion as stated by the Senator from the Thirteenth.

The motion was submitted and carried.

Examination of Mr. *Lamb* resumed.

By Mr. TRACY :

Q. Mr. Lamb, please produce the examiner's report of the Merchants and Traders' Savings Bank, made in March 31, and April 1 1874, with the letters? A. This is the paper.

Q. When was it filed in the department? A. On the 12th day of May, 1874.

The PRESIDENT — The chair thinks it proper to say that it deems it to be its duty to direct a call of the Senate whenever it appears to the chair there is not a quorum. It seems to the chair it is improper to dispose of questions, constantly probable to arise, without insisting upon a quorum being present.

Senator HAMMOND — I would inquire of the chair if there is a quorum present?

The PRESIDENT — The clerk will call the roll.

The Clerk here announced sixteen Senators present.

The PRESIDENT — It is now in order either to move a call of the Senate or move to adjourn.

Senator GERARD — I make the suggestion that the counsel consent that the trial continue with less than a quorum.

Senator BIXBY — We have no quorum now, and it seems to be evident we will have none Monday morning, and I move the Senate adjourn until Monday afternoon at 4 o'clock.

The PRESIDENT — The motion is not in order, the chair respectfully informs the Senator from the Eight; the rule of the Senate requires a quorum to be present, and the chair feels it his duty to enforce that rule.

Senator ST. JOHN — It seems to me we are not to have a quorum here, and it also appears to me not a very good proceeding to take to have a call of the Senate, although I wish to stay here and go on with the proceedings with diligence. Under the circumstances, I shall move that the Senate do now adjourn.

Hereupon the Senate adjourned to Monday morning, July, thirtieth, at 10 A. M.

SARATOGA SPRINGS, *July, 30, 1877* — 10 A. M.

The Senate met pursuant to adjournment.

Senator KENNADAY — Mr. President, I move to take a recess to 4 o'clock P. M.

Senator HARRIS — Mr. President, I have been informed — I do not know how true it is — that there is a quorum in town. I do not see the necessity of taking a recess. The attention given to the testimony, as it is orally given here, has not been very close, and I have heard many Senators remark they should rely upon the reading of the testimony as printed, rather than trying to ascertain the facts from the oral testimony delivered by the witnesses on the stand. Therefore, I see no objection to going on. If the counsel on both sides are willing it seems to me we had better stay and receive the testimony. It is

very evident we must proceed with more rapidity than we have, or else we shall stay here a long time.

Senator KENNADAY — Mr. President, it appears to me it is a question that we should raise ourselves as to our having a quorum and not leave that matter to the counsel. The way to insure a full attendance is for every Senator in the village to remain in his seat, and I must insist upon the rule that unless there is a quorum present we do no business. Therefore, I trust the motion will prevail, to take a recess to 4 o'clock P. M.

Senator HARRIS — If we follow the advice of the Senator from the Second, we shall never get through with this case, because Senators know that certain Senators are habitually away. Take, for instance the case of the Senator from the Third. He has been here but one day.

Senator KENNADAY — Mr. President, I am not arguing that we shall have a full attendance, but that we shall have a quorum. Suppose the counsel for the State answer that they are ready to go on then it is put upon the counsel for the respondent either to consent perhaps to what they do not wish to consent to, or else put themselves in the position of being responsible for the delay. It is unfair to put them in that position. I think we should say ourselves whether we shall try this case with a majority of the Senate present, or by a mere handful of Senators.

Senator STARBUCK — The discussions have probably failed to touch the real question; I make a suggestion for the ear of the Senator from the Thirteenth. Let me suppose that our deliberations result in removal. We are trying by the Senate, and not by a committee. A majority of the Senate, or a quorum is a condition precedent to jurisdiction; and after you have made your order of removal, the incumbent says: "I dissent from the conclusion reached by you; I refuse to yield, and I ask the judgment of a court upon the question. Now, when the question is litigated by *quo warranto*, and when he is able to show conclusively that our proceedings are void, because without a majority, and hence without jurisdiction, does the Senator from the Thirteenth believe that our order of removal would be enforced?"

Senator HARRIS — The Senator from the Thirteenth does believe it. This is not a trial, as in the case of an impeachment. The Senate has the power to remove the respondent without taking any testimony whatever; the Senate has the power to act in this case, without going through legal forms, but by simple inquiry; and the answer to the Senator from the Eighteenth, in regard to his proposition, is that we are trying this case upon testimony not taken before the Senate as a body. We have the testimony taken by the committee, and we have

resolved to act upon that testimony, as well as the testimony given before the Senate here, orally. Therefore, if it is proper to act upon that testimony, then it is proper for the Senate to act upon testimony taken when a quorum of the Senate is not present, because we act and our judgments are formed upon the printed testimony, and not upon the language used by the witnesses in the presence of the Senate; the statute in regard to this is, that the Governor recommends and the Senate acts; that is all. It does not provide that charges shall be made; it does not provide that witnesses shall be sworn, but that the Senate are to inquire as they see fit in regard to the facts charged against the respondent. They may inquire in any form that they please. We may dispense entirely with the swearing of the witnesses; we may dispense, and yet be within the statute, with all the forms of trial, and in the case which the Senator from the Eighteenth suggests in case of the removal, no proceedings by *quo warranto* will apply because we are not limited to the forms of legal trial. We are simply to inquire, and the requisites required in impeachment are dispensed with in the statute in regard to cases similar to the one now before the Senate; therefore, the suggestions made by the Senator from the Eighteenth are not pertinent to this question. In regard to the suggestion made by the Senator from the Second, that the counsel for the respondent may feel delicate about saying whether they are willing to go on or not, I apprehend there is no such delicacy as that. They certainly have not evinced any such delicacy in expressing their opinion or their judgment heretofore, and I trust they will not hereafter. There is no embarrassment in the case. If the counsel for the respondent or prosecution suggest they prefer a quorum here, I agree we should take a recess or adjourn, but until the attorneys on either side do that, I trust we will go on and expedite matters and take this testimony.

Senator KENNADAY—I had no idea of making a suggestion that I supposed the counsel on either side would be delicate about expressing their opinion upon this question, but it seemed to me to be so plain what our duty was that it did not seem to be necessary to put them in that position but that we should decide it for ourselves, that was all; I now desire, Mr. President, to have the roll called.

The Clerk announced the presence of fifteen Senators.

Senator KENNADAY—Mr. President, I suppose the only thing that can be done is either to move a call of the Senate or take a recess; I therefore move we take a recess until four o'clock P. M.

The President submitted the question on the motion of the Senator from the Second and it was decided in the affirmative.

Recess to 4 o'clock P. M.

SARATOGA SPRINGS, *July* 30, 1877.

The Senate reconvened at 4 P. M.

MR. TRACY—We will now present the case of “The Mechanics and Traders’ Savings Institution.” The first piece of evidence is a document from the department which is not printed in the testimony. It reads as follows:

MECHANICS AND TRADERS' SAVINGS INSTITUTION, NEW YORK. Examined March 31 and April 1, 1874, by George W. Reid, Wm. F. Aldrich and Isaac H. Vrooman.

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages	7	.....	....	.....	\$747,650 00
Tennessee State.....	6	\$168,000 00	70	\$117,600 00	
Alabama State.....	8	166,000 00	90	149,400 00	
North Carolina State.....	6	114,600 00	30	34,380 00	
South Carolina State.....	6 gold	155,000 00	17	26,350 00	
New York city.....	6	100,000 00	100	100,000 00	
New York city.....	7	275,000 00	100	275,000 00	
Brooklyn city.....	7	257,000 00	103	264,710 00	
Buffalo city.....	7	130,000 00	100	130,000 00	
Rochester city.....	7	256,000 00	100	256,000 00	
Oswego city.....	7	197,000 00	100	197,000 00	
Westchester county.....	7	10,000 00	100	10,000 00	
Yonkers town.....	7	21,000 00	100	21,000 00	
Morrisania town.....	7	3,000 00	100	3,000 00	1,584,440 00
Banking-house.....	....	.....	....	.....	100,000 00
Real estate bid in on foreclosure, cost (and worth more than).....	....	.....	....	.....	30,000 00
Suspense account, bankruptey claims, worth.....	....	.....	....	.....	20,000 00
Cash in vault .....	....	.....	....	\$19,622 11	
Cash in Chatham National Bank.....	4	.....	....	11,964 62	
Cash in Oriental Bank.....	4	.....	....	78,326 07	109,912 80

MECHANICS AND TRADERS' INSTITUTION — (Continued).

ASSETS.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Interest accrued.....	\$52,338 00
LIABILITIES.					
Due 5,069 depositors.....	\$2,525,709 62	\$2,644 340 80
Interest accrued.....	36,300 00	
Surplus	2,562,009 62
					\$82,331 18

MECHANICS' AND TRADERS' SAVINGS INSTITUTION — (Continued).
Annual Income and Charges thereon.

INVESTMENTS, ETC.	Rate of Interest.	Amount at par.	Revenue.	Totals.
INCOME.				
Bonds and mortgages.....	7	\$747,650 00	\$52,335 50	
Alabama State.....	8	166,000 00	13,280 00	
City and town bonds.....	6	100,000 00	6,000 00	
City and town bonds.....	7	1,149,000 00	80,430 00	
Cash in bank.....	4	90,290 00	3,611 60	\$155,057 10
CHARGES.				
Interest to depositors.....			\$145,000 00	
Salaries.....			15,600 00	
Internal revenue tax.....			1,857 00	
Other taxes.....			778 00	
All other charges.....			6,900 00	\$170,135 00
Deficiency of income.....			.....	\$14,477 90

The large amount locked up in southern State bonds, upon which interest is suspended, the failure to rent real estate and the balance of an old bankruptcy claim have combined to reduce the income of the bank so much that a deficiency of over \$14,000 will occur for the current year. The trustees hope to realize something from the southern bonds and the sale of real estate.

Report of Mechanics and Traders' Savings Institution, an incorporated institution for savings, of its Condition on the 1st day of July, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$748,150 00
2. Stock investments, as per Schedule B, hereto annexed	1,703,039 75
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.. ..	
6. Real estate, standing on books at cost, market value \$130,554.55; cost.....	109,582 05
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	82,009 12
8. Cash on hand not deposited in bank.....	20,000 00
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	100,375 01
	<hr/>
	\$2,763,155 93

LIABILITIES.

1. Amount due depositors.....	\$2,565,178 17
Principal.....	\$2,491,601 51
Interest credited for the 1st of July, 1874.....	73,574 66
2. Other liabilities, viz.: Excess of cost.....	69,600 23
3. Excess of assets over liabilities.....	128,376 83
	<hr/>
	\$2,763,155 93

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK. } ss.:

Alfred T. Conklin, president, and Henry C. Fisher, secretary of the Mechanics and Traders' Savings Institution, an incorporated institution for savings, located and doing business at No. , street, in , being duly and severally sworn, each for himself, saith that the foregoing report, and the schedules accompanying the same, are in all respects a true statement of the condition of said institution before the transaction of any business on the morning of the first day of July, one thousand eight hundred and seventy-four, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

A. T. CONKLIN, *President.*

H. C. FISHER, *Secretary.*

Severally subscribed and sworn by }
both deponents, the 25th day of }
July, 1874, before me. }

FERDINAND LEVY,

Commissioner of Deeds.

SCHEDULE A.

BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mort- gaged premi- ses.	Rate of interest.
1	New York....	New York....	\$4,000	\$10,000	
4	New York....	New York....	5,000	10,000	
5	Kings.....	Brooklyn	1,250	2,500	
9	Kings.....	Brooklyn.....	2,000	4,000	
10	Kings.....	Brooklyn.....	1,300	2,600	
15	New York....	New York....	4,500	11,250	
19	Kings.....	Brooklyn.....	1,200	2,500	
23	Kings.....	Brooklyn.....	800	3,000	
24	New York....	New York....	600	7,500	
26	Kings.....	Brooklyn.....	1,600	5,000	
29	Kings.....	Brooklyn.....	2,500	5,500	
37	New York....	New York....	1,000	2,600	
45	New York....	New York....	5,000	20,000	
46	New York....	New York....	2,000	5,000	
47	Kings.....	Brooklyn.....	5,000	20,000	
50	Kings.....	Brooklyn.....	500	2,500	
52	Kings.....	Brooklyn.....	1,000	2,500	
53	New York....	New York....	12,000	25,000	
55	New York....	New York....	5,000	10,000	
56	New York....	New York....	6,000	12,000	
57	New York....	New York....	2,500	7,500	
58	New York....	New York....	6,000	12,000	
59	New York....	New York....	4,000	15,000	
60	New York....	New York....	5,000	10,000	
61	New York....	New York....	6,000	15,000	
63	New York....	New York....	7,000	14,000	
64	New York....	New York....	10,000	20,000	
65	New York....	New York....	5,000	10,000	
67	Kings.....	Brooklyn.....	1,500	.....
68	Kings.....	Brooklyn.....	4,500	.....
69	Kings.....	Brooklyn.....	1,500	30,000	
71	New York....	New York....	12,000	30,000	
72	New York....	New York....	4,000	10,000	
73	New York....	New York....	15,000	37,500	
76	New York....	New York....	15,000	37,500	
77	New York....	New York....	15,000	37,500	
79	New York....	New York....	14,000	37,500	
81	New York....	New York....	7,000	14,000	
83	Kings.....	Brooklyn.....	5,000	14,000	
84	New York....	New York....	10,000	25,000	
85	Kings.....	Brooklyn.....	3,000	7,500	
88	New York....	New York....	10,000	35,000	

SCHEDULE A — (Continued).

No.	County where located.	In what city, village or town.	Principal unpaid.	Estim'd value of mortgaged premises.	Rate of interest.
89	Kings.....	Brooklyn.....	\$5,000	\$10,000	
90	Kings.....	Brooklyn.....	5,000	10,000	
91	Kings.....	Brooklyn.....	5,000	10,000	
92	Kings.....	Brooklyn.....	4,500	30,000	
93	Kings.....	Brooklyn.....	3,300	6,600	
94	Kings.....	Brooklyn.....	3,300	6,600	
97	New York....	New York....	6,000	15,000	
99	New York....	New York....	2,500	7,500	
102	Kings.....	Brooklyn.....	500	1,000	
103	Kings.....	Brooklyn.....	8,000	16,000	
104	New York....	New York....	20,000	50,000	
105	New York....	New York....	6,000	12,000	
106	New York....	New York....	6,000	12,000	
107	New York....	New York....	8,000	16,000	
108	New York....	New York....	5,000	10,000	
109	New York....	New York....	6,000	12,000	
111	New York....	New York....	6,000	12,000	
112	New York....	New York....	6,000	12,000	
113	Kings.....	Brooklyn.....	15,000	37,500	
114	New York....	New York....	10,000	20,000	
115	New York....	New York....	7,000	15,000	
116	Kings.....	Brooklyn.....	6,000	15,000	
117	New York....	New York....	12,000	25,000	
118	New York....	New York....	8,000	16,000	
119	New York....	New York....	9,000	18,000	
120	New York....	New York....	5,000	10,000	
121	Kings.....	Brooklyn.....	16,000	40,000	
122	New York....	New York....	5,000	15,000	
123	Kings.....	Brooklyn.....	4,500	10,000	
124	Kings.....	Brooklyn.....	1,000	40,000	
125	New York....	New York....	5,000	10,000	
126	Kings.....	Brooklyn.....	2,000	4,000	
127	Kings.....	Brooklyn.....	2,000	4,000	
128	Kings.....	Brooklyn.....	12,000	35,000	
129	Kings.....	Brooklyn.....	2,000	4,000	
130	Kings.....	Brooklyn.....	3,500	7,000	
131	New York....	New York....	3,000	7,500	
132	New York....	New York....	7,000	14,000	
133	New York....	New York....	7,000	14,000	
134	New York....	New York....	7,000	14,000	
135	New York....	New York....	3,000	6,000	
136	New York....	New York....	4,000	8,000	
138	Kings.....	Brooklyn.....	10,000	20,000	
139	New York....	New York....	10,000	20,000	
140	New York....	New York....	7,000	14,000	

SCHEDULE A.—(Continued).

No.	County where located.	In what city, village or town.	Principal unpaid.	Estim'd value of mortgaged premises.	Rate of interest.
141	New York....	New York....	\$7,000	\$14,000	
142	New York....	New York....	8,500	17,000	
143	New York....	New York....	6,000	15,000	
144	New York....	New York. ..	6,000	12,000	
145	Kings.....	Brooklyn	3,200	6,400	
146	New York....	New York....	2,000	4,000	
147	New York....	New York....	2,000	4,000	
148	New York....	New York....	2,000	4,000	
149	New York....	New York....	2,000	4,000	
150	New York....	New York....	12,000	24,000	
151	Kings	Brooklyn.....	1,800	3,600	
152	New York....	New York....	9,000	18,000	
154	Kings.....	Brooklyn.....	4,500	9,000	
155	New York....	New York....	5,000	14,000	
156	New York....	New York....	10,000	25,500	
157	New York....	New York....	10,000	25,500	
158	New York....	New York....	10,000	22,500	
159	New York....	New Nork....	10,000	22,500	
160	New York....	New York....	10,000	22,000	
161	Kings.....	Brooklyn.....	2,000	4,000	
162	Kings.....	Brooklyn.....	1,500	3,500	
163	New York....	New York....	5,000	12,500	
164	Kings.....	Brooklyn.....	6,000	14,000	
165	New York....	New York....	60,000	230,000	
166	New York....	New York....	11,000	25,000	
167	Kings.....	Brooklyn.....	5,000	10,000	
168	Kings.....	Brooklyn.....	2,250	6,000	
169	Kings.....	Brooklyn.....	2,250	6,000	
170	New York....	New York....	8,000	24,000	
171	Kings.....	Brooklyn.....	5,000	11,000	
172	Kings.....	Brooklyn.....	1,000	5,000	
173	New York....	New York....	3,800	9,000	
			\$748,130		

SCHEDULE B — STOCK INVESTMENTS.

NAME OF STOCK.	Rate of Interest.	Cost.	Par value.	Estimated market value.
Tennessee State bonds.....	\$143,642 25	\$168,000 00	\$102,480 00
Alabama State bonds.....	157,700 00	166,000 00	147,740 00
North Carolina State bonds.....	74,550 00	114,600 00	36,672 00
South Carolina State bonds.....	90,050 00	155,000 00	31,000 00
New York city and county bonds.....	375,000 00	375,000 00	381,561 63
Brooklyn (park) bonds.....	241,575 00	240,000 00	256,200 00
Brooklyn (Wallabout) bonds.....	16,957 50	17,000 00	17,845 00
Oswego city bonds.....	187,150 00	197,000 00	203,895 00
Buffalo city bonds.....	129,225 00	130,000 00	134,550 00
Rochester city bonds.....	253,500 00	256,000 00	265,460 19
Yonkers bonds.....	20,690 00	21,000 00	21,612 49
Morrisania bonds.....	3,000 00	3,000 00	3,275 01
Westchester county bonds.....	10,000 00	13,000 00	10,175 00
Total.....	\$1,703,039 75	\$1,852,600 00	\$1,612,466 32

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	Rate of interest.
Chatham Nat'l Bank.	Broadway	\$32,692 26	.....
Oriental Bank.	Cor. Bowery and Grand	49,316 86	.....
Total .....	.....	\$82,009 12	.....

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS :

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....	.....	.....
New York State stocks.....	.....	.....
Stocks of other States.....	\$148,050 25	.....
Bonds of counties, cities and towns of this State.....	.....	\$57,476 82
Other stocks and bonds.....	.....	.....
Real estate.....	.....	20,972 50
Totals	\$148,050 25	\$78,449 32
Difference.....	.....	*\$69,600 93

LOANS, DEPOSITS, INVESTMENTS OR ASSETS OF EVERY DESCRIPTION,
NOT HERETOFORE ENUMERATED, VIZ. :

† Interest accrued and uncollected July 1, 1874 :

Bonds and mortgages.....	\$7,556 21
New York city and county bonds.....	4,811 63
Brooklyn city bonds.....	8,995 00
Tennessee State bonds.....	
Oswego city bonds.....	6,895 00
North Carolina bonds.....	
South Carolina bonds.....	

*If cost exceeds market value the difference should be entered under the head "Other liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will, of course be just to include in this schedule the interest due, though unpaid, on investments.

Alabama bonds.....	\$6,640 00
Buffalo city bonds	4,550 00
Rochester bonds.....	8,820 19
Westchester county bonds.....	175 00
Yonkers, bonds.....	612 49
Morrisania, N. Y., bonds.....	275 01
Judgment secured by real estate.....	5,004 48
Suspense account.....	41,000 00
	<hr/>
	\$100,375 01
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STATE OF NEW YORK, }
 BANK DEPARTMENT } ss. :

I, De Witt C. Ellis, Superintendent of the Banking Department of the State of New York, do hereby certify that I have compared the foregoing copy of a report of the Mechanics and Traders' Savings Institution of New York, showing its condition on the 1st day of July, 1874, with the original report on file in this department, and that I find the same a correct transcript therefrom and of the whole of such original, together with the indorsement thereon.

[OFFICIAL SEAL.]

In testimony whereof I have hereunto set
 my hand and affixed my official seal this
 18th day of August, 1874.

HENRY L. LAMB,

Deputy-Superintendent.

The next piece of evidence is a report of the Mechanics and Traders' Savings Institution, of its condition on the 1st of July, 1874. It will be seen that the bank, on July 1, 1874, claimed to have an excess of assets over liabilities amounting to \$128,376.83. The examination which was made by order of the department on the first of April previous, made their surplus \$40,000 less, and shows a deficiency of income of \$14,000 or \$15,000. This report, which is here, shows among the assets the item of \$41,000 expense account. I have here a copy of that entire report; that is contained in another document contained in the testimony. It is a Senate document, and if I may be allowed to read it in the absence of Mr. Lamb, it will facilitate the proceedings some. It is the report that the examination for March 21 and April 1, 1874, by George W. Reid and Isaac H. Vroman, contained in a Senate document No. 108, page 250. The original paper is in the possession of the department. I read this upon anticipation of proving it when Mr. Lamb comes in.

Mr. CHAPMAN — Mr. President, it is a point which can only come up under the first message, and a point that I understand the statute has not passed upon, and it is a point I raise for the purpose of saving

the time of the Senate, so that we may not go into additional investigations.

The PRESIDENT—The counsel does not object on the ground it is not the original report?

Mr. CHAPMAN—No, sir; the point which I wish to raise will be brought up by this objection. I object to any testimony that is outside of the charges contained in the Governor's message, and which ought to have been read to us. Now, in the course of this first message only the message was read to us here by the clerk under the rule, which was adopted by the Senate, to the effect that the charges must be read; hence I infer that the only charges we are being tried upon, so far as the first message is concerned, are the charges contained in that message. I will say right here that the only point I have—I know nothing about what there may be beyond or behind the charges contained in the Governor's message, and the only point I have here is to save the time of the Senate so that we need not go all over the year or two ahead of the Governor's charges, or the year or two subsequent to the time of the circumstances mentioned in the Governor's charges. Now in the Governor's charges as contained in this message, which has been held by the Senate to be different in the case of the first message from the case of the second message, the charges are all embraced in the message itself. If my friend will read to me any portion of that first message under which he can claim that the report prior to July, 1874, or the report which he offers in evidence, is admissible under the rule of the Senate which provides that evidence shall be admitted the same as in courts of law—if he will point me to that portion of the message and satisfies the Senate there is any such portion under it, this evidence will be admissible under the rules the Senate have adopted, then, of course, I shall be content. If my friend will read that portion of the message under which he claims this testimony is admissible, it brings it up for discussion and admission by the Senate.

Mr. TRACY—Mr. President, the Governor sent to the Senate his own message proper with schedules annexed, and, in his own message, he says the charges are that the bank was insolvent in July, 1874, the deficiency then being about \$200,000, and he proceeds with other things; and then he submits the following, which will be found on page 5 of the printed book; it is in William J. Best's statement "As the result of my investigations I would state first, that the books of the institution furnish undoubted evidence that it was hopelessly insolvent in the summer of 1874, and for a considerable time previous."

Mr. CHAPMAN—Where do you read that?

Mr. TRACY—On page 5 of the printed proceedings.

Mr. CHAPMAN—That was not read to us as a part of the charges in any way, and we have not been called on to reply to them. Under the ruling of the Senate, it requires charges to be read. Only the Governor's message was read to us in this case.

Mr. TRACY—It can be read now; that was only for convenience.

Mr. CHAPMAN—A clerk read in the first message a message of the Governor under instructions from the presiding officer, with the documents accompanying; they were accompanying documents. In the case of the second message, under the rule prescribed by the presiding officer, and the chair will recollect there was some discussion over it, not only was the message read, but the accompanying documents as charges were read—it being claimed they were specific charges.

The PRESIDENT—This testimony does not come under the first message, but it comes under the accompanying documents.

Q. Is that the point?

Mr. CHAPMAN—It does not come under the message that was read to us as the charges contained against us—that is, the first message. The second message does not allude to this bank at all.

Mr. TRACY—Mr. President, I was proceeding to state that the documents on page 4, as the result of my investigations, "I would state *first*, that the books of the institution furnish undoubted evidence that it was hopelessly insolvent in the summer of 1874, and for a considerable time previous." * * * Your committee find that the whole receipts of the institution from January 1st to July 1st, 1874, to be \$75,739.07, and the expenses during the same time to be \$90,780.77, showing that the expenses exceeded the receipts by \$15,041.07.

I apprehend the question of whether it was insolvent on the 1st day of July, 1874, or at an earlier day, is an indifferent question for you always look at the condition of things before and after a certain day to determine whether it was insolvent on that day. The allegations here are, that, in effect, prior to the 1st of July, 1874, and at that day and afterwards, the institution was insolvent and allowed to proceed by the negligence of the superintendent. The two facts, one, noticed to him, and his inaction, that is one fact, and the other fact insolvency, are subjects which the Senate have allowed to be considered fully. Then, on the question of insolvency, the fact you may want may be the fact of a prior or subsequent date, but it is important in determining the real condition at any specified time.

Mr. CHAPMAN—Mr. President, my friend does not seem to know the point which I make at all. The point which I make is this; under your rules, the charges which we are to be tried upon are to be read to us from the clerk's desk; now, the Governor's message, in the first

instance, contained the charges, and the only charges which were read to us ; now, when my friend goes out of the Governor's charges, to documents which accompany the message, to find we are not for the introduction of this testimony, he is going away from the issue which is to be tried upon, so far as this first bank is concerned, and I say the point brought up in regard to this first message has not been yet passed upon by the Senate. The decisions of the Senate hitherto, in relation to questions arising under the second message of his excellency the Governor, and the charges which have been held by the Senate to be such, accompanying that message, those charges were read to us. The Senate may have very well held, in this case, the misconduct and the accompanying charges should be tried together, and were read to us together. They may have held the broadest of latitude in regard to the admission of evidence under those, but here we have an entirely distinct and separate question, whether on those charges which, by your rules, were required to be read to us, and which have been read to us, this evidence is admissible. That is the question we have here now. If we apply the rules of evidence to the issues which have been presented to us, then we are limited to the charges, so far as the consideration of this one bank is concerned. We are limited to the charges contained in the Governor's message referring only to that one bank. That is the first message of his Excellency the Governor in relation to the Mechanics and Traders' Saving Institution. I do it with the idea of saving the time of the Senate, so that we need not go into the Mechanics and Traders' Savings Institution books from 1873 to the time the Governor speaks of, and from that down to the receiver's hands.

Mr. TRACY — The gentleman is quite mistaken ; those charges are read ; I refer to the journal, page 30 ; it will be seen there or here.

Mr. CHAPMAN — Mr. President, it is within the knowledge of every member around this circle and of my friends that these documents accompanying the charges were not read by the clerk, and he will not, on his honor as a professional man, say they were read ; I think all that was read, so far as the Governor's first message was concerned, was the message of the Governor.

The PRESIDENT — Counsel for the State proposes to read in evidence a certain report of the bank examiner in relation to the Mechanics and Traders' Savings Institution. The counsel for the respondent objects on the ground that no charges covering the proposed evidence have been read to the respondent as required by the rules of the Senate.

The chair will submit the question to the Senate.

Senator KENNADY — Mr. President, in case these documents have been read by the clerk, I desire to inquire whether the counsel will then consider proper to make the objection.

Mr. CHAPMAN — I should not, and for this reason: the documents accompanying the message in this case are not at all like the documents accompanying the message in the other case. They do not purport to be charges at all. The language of the letter of Best to the Governor commences in this way:

“I have the honor to submit herewith for your consideration certain documents which appear to me of the greatest public importance.

* * * For these reasons and in the clear discharge of my duty, I have thought it proper to bring to your notice facts herein recited and the proofs,” etc. There is nowhere in the letter or accompanying documents any thing which claims to be a charge.

Senator BRADLEY — Mr. President, I desire to say a word about this matter. As I understand the point made by the counsel for the accused, it is that it does not apply to the charges contained in the Governor’s message as suggested, and therefore incompetent; conceding, I believe, that it is contained in the document annexed to the Governor’s message.

Mr. CHAPMAN — I do not concede that.

Senator BRADLEY — But, because they have not been read to the Senate under the statement annexed to the documents it is not competent. That certainly is the point, as I understand it. I understood when we proceeded to the trial of this case, that the documents annexed to the message were treated as part of the message, and a motion was made, I think, by the Senator from the Second, to the effect that they be not treated as part of the message or part of the charges; and that motion was lost, and, so far as I understand, my understanding has been during the investigation that the documents were part of the message, whether read or not in full. I do not now recollect, but, in view of the understanding in that respect, if there is any necessity of having those charges read it can be done now, but is not the charge contained in the Governor’s message? In his first part of the message he says the charges are that the bank was insolvent in January, 1874, the deficiency being about \$200,000. This, as I understand it, is evidence to show the condition of the bank as shown by the examinations in March and April, 1874, and is not thought competent upon the question of the insolvency of the bank in July of that year. It seems to me that the evidence will be competent to show its condition three or four months prior to the day mentioned in the message. My view of it is that the document is part of the message.

The PRESIDENT—The chair asks the counsel for the respondent if “Mack’s” charges contained cover it.

Mr. CHAPMAN — “Mack’s” charges, are connected with the second message, were not the first message at all. Whether subdivision five of the “Mack” charges does not cover the proposed evidence, the Senate, I believe, decided that, that the “Mack” charges were regarded as a part of the message of the Governor. It seems to cover it in the judgment of the chair.

Senator STARBUCK — Mr. President, I rise to make a remark about what has been said of the condition of the journal, and the statement, to my mind, is due to whatever person has charge of the making up of this journal and its publication, for it was with a that the counsel for the respondent said that no gentleman around this circle would challenge the proof of what he said, and I think he is right, and it is due that all of us understand that it arose in this way, I think it is true that the message, the first message of the Governor, was read; and the clerk, when he read it, and every Senator when he heard it deemed it unnecessary to read the details of the inclosure, and in all our minds the quantity read referred to the other and carried with it the other; and it was deemed by us as though the whole had been read. This message was not read and it was very deliberately determined by the Senate that the accompanying document should be deemed a part of the message, and that being so, and following that rule, the journal is correct, and the clerk did no more than his duty in making a journal that made it remembered that what the Senate regarded as the whole message was read, by the reading of what stood over the name of L. Robinson, Governor. Now, I quite agree, passing to another branch of the subject, that to attempt to exclude important testimony upon so narrow a ground as that this accompaniment of the message was not read, is an attitude that perhaps the counsel for the defense is contented with; of that they are the judges.

Mr. CHAPMAN — Mr. President, allow me to make a single suggestion to remind the Senator from the Eighteenth that the only object I had in connection with it was, that if we could limit this investigation to the message itself, then we should save the time of going over this all; and there is no objection to going over it, except in relation to that savings bank.

Senator STARBUCK — Let me speak in regard to that. Here stands the text of the message. It is declared that before and after such a time the bank was manifestly insolvent. Well, now, upon the suggestion made by the counsel, it certainly is competent to take up evidence under that charge, of the fact that it was insolvent before

that, and was insolvent after that time. The only question in that view narrows itself to what is competent on that point.

Senator HARRIS — Mr. President, I had supposed it had been settled by the Senate that the papers accompanying the messages of the Governor, formed a part thereof, and the Senate had decided to so treat the documents appended to the messages. If the respondent is prejudiced by reason of the documents accompanying the messages not having been read by the clerk, I suppose that can be remedied by the clerk now reading them. But I do not apprehend that there is any necessity for that, for I quite agree with the Senator from the Twenty-seventh that the charge of the Governor in his message that in July, 1874, this bank was insolvent, is quite sufficient for admitting any proof showing that it was insolvent, and proof in regard to that is not limited to the exact day, the ninth day of July, stated by the Governor, but that, in giving evidence, the counsel for the prosecution may go behind that day and show the state of the bank at least, at any time after the January report.

Now, we have in evidence — the counsel for the prosecution have read it or alluded to it — the report of this bank on the 9th day of July, 1874, by which it would appear, from the statement of the bank officers, that they had assets, over and above their liabilities, of \$128,000. The charge is that on that very day the bank was insolvent and how do you propose to show that it was insolvent? Why, namely; that the last day of March, or the first day of April, examiners were sent out and examined this bank, and, as I understand the counsel for the prosecution, he proposes to show by the report of these examiners, that then the bank was insolvent.

Mr. CHAPMAN — The report shows a surplus of \$80,000 and odd.

Senator HARRIS — The proposition of the counsel for the prosecution is to put in that report, in order to prove that the bank was insolvent. Of course, if it is not for that purpose, then it is inadmissible, because it can be material; but if he offers to put in evidence, showing the state of the bank, at any time, between the report of January, 1874, and prior to the report of July, 1874, in which the bank claimed they had \$128,000 over and above liabilities, it seems to me it must be under this charge that on that day the bank was insolvent. Therefore, I think the evidence showing insolvency at any time prior to that date is admissible.

Mr. McGUIRE — If the counsel for the respondent had supposed this question had been decided by the Senate, I apprehend they would be the last persons who challenged any ruling the Senate could make.

The counsel for the respondent, in good faith, raised the objection, and believe that the question has not been settled yet by the Senate.

When the question which was settled by the Senate was under consideration or discussion as to the admission of evidence upon the phraseology of the Governor's message, the second message, many Senators claimed that under the phraseology of the second message the proof was inadmissible. I will call the attention of the Senate, Mr. President, to some portion of the expressions of the Governor in the second message, upon which it is claimed that evidence in regard to the Third Avenue Savings Bank was received by the Senate. The Governor commenced that message by saying, "I have received additional charges against the same officer." The message concludes that "there may be no technical objection to investigation of action upon those charges. I again recommend the removal of De Witt C. Ellis from the office of the Superintendent of the Banking Department, as well upon the charges transmitted hereafter as upon those heretofore presented and now under consideration."

Now, it will not be forgotten that many Senators in the discussion claimed that, as the Governor referred to the "Mack" and Mallon statements as charges, called them charges in his message, that the Governor meant to incorporate those documents as a part of those messages, and as a part of the charges that he made, and that the Senate so discussing and so acting the respondent's counsel believed, when this objection was raised, that the Senate admitted that testimony simply upon the ground that the Governor in his message had said that they were additional charges, and that he made them a part of his message.

Now, in the message of the Governor under consideration, there is no such language used. The Governor nowhere refers to them as parts of charges, but refers to them as proofs, either documentary or otherwise; but it was upon that broad, marked distinction between the language of the two messages that the respondent's counsel now raises the objection; and I must be permitted to say, on behalf of myself and associate, that, if we had supposed for a moment that the Senate had decided the question in such a plain, unqualified manner, as some of the Senators have stated, we should not have treated the ruling of the Senate with a seeming contempt by raising the question again. Our objection is raised upon the marked difference between the language of the two messages.

Mr. TRACY—Mr. President, may I be allowed to say the only method that I have for opposing the objection from the other side is the question of time. If the Senate of the State of New York, with such a matter as this before it, affecting so many vital interests of the State, is fearful of using or , a small item, it must be the judge of the expediency of taking that view. The second objec-

tion is that we are confined to the charges that were read. Sometimes things are read by their titles and are said to be read ; and, oftentimes, schedules annexed are considered in evidence as read, but the point is this, that until they were read, it was not bound to answer them. The counsel says they were not to be tried upon them because they have not been read. I refer the counsel to page 25 of the printed book and the respondent's answer.

Senator VEDDER — Mr. President, I believe it was originally understood when we started out in this investigation, conceded by all, that the jurisdiction of this tribunal was as boundless as the official field of wrong, that we could traverse every thing, that we had that power. For the purpose of being confined to something, a resolution was submitted that the counsel on behalf of the State should make charges and specifications so that we might have before us some guide whereby we could pursue our investigations in an orderly manner. After trying that a while, that fell through. Then the question came up to try what the Governor had sent us, and it became a question then whether what preceded the name of L. Robinson was to be tried, or those things mentioned that preceded his name, or accompanying documents, were to be treated and to be considered a part of the documents.

Now, I had supposed at that time that the matter was settled, and I so understood the same, as had Senators around the circle, that the Governor simply meant, by what he said to us, that upon the documents herewith transmitted, I recommend, for culpable negligence, the removal of De Witt C. Ellis, Superintendent of the Banking Department, and that what he did say was simply an elaboration of that thought, that, upon these documents, I recommended his removal. I had supposed the Senate was so regarding the whole matter, that what he said was simply a recommendation to the Senate that they should investigate the charges and all the documents that had been submitted to him ; and, if they were of the same opinion that he was, when they had investigated those documents and the messages from him, that then they should remove, and having considered it in that light myself, and having supposed that matter was settled, I shall now vote for an introduction of this evidence, so far as, at least, the objection is concerned, that it is one of the charges that we are to investigate ; and I think it ought to be settled and disposed of now, so that counsel for the State and respondent may thoroughly understand what we are investigating. And if a motion were necessary, I should make the motion that every thing that the Governor has sent us be considered as a charge which we are to investigate in the trial of this matter.

Senator HAMMOND — That would include the documents.

Senator VEDDER — Of course, I have regarded these documents as that the Governor might have said this without elaboration whatever. He must have had plenty of time, whenever he wrote the message, or whatever you call it; or else he should have transmitted the documents, and said "upon these herewith sent you, for culpable negligence, I recommend the removal of DeWitt C. Ellis," and that is all he has said by drawing it out to the length he has. Having regarded it in that way, while I was in favor of the original resolution of the Senator who now produces orders with charges and specifications before you, fearing we might get into the same confusion in which we seem to be at the present time, that having fallen through nothing else should be regarded, it seems to me, except the whole thing that has been sent us. We are to take the whole thing into consideration.

The President submitted the question to the Senate whether it would receive the testimony, and it was decided in the affirmative.

Mr. TRACY — Mr. President, I was about to read and will now by leave of the Senate, this copy of the examination made by Reid, Aldrich and Vrooman, March 31 and April 1, 1874.

BANK DEPARTMENT, }
STATE OF NEW YORK. }

Pursuant to the authority conferred and the duty imposed upon the Superintendent of the Banking Department, by chapter 693 of the Laws of 1871, I do hereby appoint George W. Reid, William F. Aldrich and Isaac H. Vrooman to examine into the condition, working and affairs generally, of the Mechanics and Traders' Savings Institution of New York, and report thereon to me in detail as soon as practicable.

Given under my hand and official seal at Albany, this 26th day of February, 1874.

[SEAL.]

D. C. ELLIS, *Superintendent.*

Hon. D. C. ELLIS, *Superintendent Bank Department :*

SIR — The undersigned appointed to examine into the condition, working etc., of the Mechanics and Traders' Savings Institution report. The large amount locked up in State bonds, with interest suspended real estate not rented and balance of an old bankruptcy claim, has reduced the income of this institution so much that there will be a deficiency of over \$14,000 for the current year. The officers say they have assurances from the south that the interest on a portion of their investments will be paid in a very few months, which, with the

contemplated sale of the Brooklyn property, will carry them through the year without any further diminuation of their surplus, which has been reduced to \$82,331.

Respectfully submitted.

GEORGE W. REID.

W. F. ALDRICH.

J. H. VROOMAN.

Examined March thirty-first and April first.

MECHANICS AND TRADERS'.

948

	Rate of interest.	amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	\$747,650 00
Tennessee State Bonds.....	6	\$168,000	76	\$117 600 00	
Alabama State bonds.....	8	166,000	90	149,400 00	
North Carolina State bonds.....	6	114,600	30	34,380 00	
South Carolina State bonds.....	6g	155,000	17	26,350 00	
New York city bonds.....	6	100,000	100	100,000 00	
New York city bonds.....	7	275,000	100	275,000 00	
Brooklyn city bonds.....	7	257,000	103	264,710 00	
Buffalo city bonds.....	7	130,000	100	130,000 00	
Rochester city bonds.....	7	256,000	....	256,000 00
Oswego city bonds.....	7	197,000	197,000 00	1,584,440 00
Westchester county.....	7	10,000	....	10,000 00
Yonkers, town.....	7	20,000	....	21,000 00
Morrisania, town.....	7	3,000	....	3,000 00
Banking-house.....	....	.....	....	.....
Real estate bid in on foreclosure, cost (and worth more than).....	....	.....	....	.....
Suspense account, bankruptcy claim, worth.....	....	.....	....	.....
Cash in vault.....	....	.....	....	19,622 11
Cash in Chatham National Bank.....	4	.....	....	11,964 61
Cash in Oriental Bank.....	4	.....	....	78,326 07
Interest accrued.....	109,912 80
					52,338 00
					<u>\$2,644,340 80</u>

Due 5,069 depositors.....	....	.....	....	2,525,709 62	
Interest accrued.....	....	.....	....	36,300 00	
					2,562,009 62
Surplus.....	....	.....	....	.....	\$82,331 18

MECHANICS AND TRADERS.—(Continued).

INVESTMENTS.		Rate of interest.	Amount at par.	Revenue.	Totals.
INCOME.					
Bonds and mortgages	7	\$747,650 50	\$52,335 50		
Alabama State bonds	8	166,000 00	13,280 00		
City and town bonds	6	100,000 00	6,000 00		
City and town bonds	7	1,149,000 00	80,430 00		
Cash in bank	4	90,290 00	3,611 60		\$1,155,657 10
CHARGES.					
Interest to depositors			\$145,000 00		
Salaries			15,600 00		
Internal revenue tax			1,857 00		
Other taxes			778 00		
All other charges			6,900 00		170,135 00
Leaving a deficiency of income					\$14,477 90

EXAMINATION BLANK, No. 4.

Sundry items of assets, the liabilities, also other statistics of the Mechanics and Traders' Savings Institution, as found upon examination made March 31 and April 1, 1874.

Real estate owned, banking-house; location, 283 Bowery; dimensions of ground, 27 x 71; dimensions of building, covers whole ground; cost of ground, \$11,500; cost of building, \$90,000, about; estimated market value of real estate, \$100,000; amount of cash on hand, \$109,912.80; in vault, \$19,622.11 (to be verified by examiner's count); in banks or in trust companies, viz. (to be verified by certificates of bank officers); Chatham National bank, \$11,964.62; Oriental bank, \$78,326.07.

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz.:

On bonds and mortgages, \$17,952; on stocks, \$23,711; Alabama, from July 1, 1873, to be paid in a few days, \$9,960; on call loans, none; on deposits in bank, \$715; what amount of the above is more than three months over due, \$507; rents due and collectible or accrued to date, none.

Any other properties constituting assets, viz.:

Claim against a debtor in bankruptcy, \$41,000, worth \$20,000; two houses in Brooklyn, President and Van Brunt streets, bid in on foreclosure (45x100), interest, cost, repairs, etc., worth \$30,000; annual rental of real estate owned or leased, at current rates, all occupied by bank; rate of interest on call loans, none at present; rate of interest on deposits in bank, etc., four per cent.

Interest credited January 1, 1873, \$83,308.87; deposits that date \$2,847,231.24; interest credited July 1, 1873, \$83,225.63; deposit, that date, \$2,848,133.32; interest credited Jan. 1, 1874, \$76,652.48; deposits that date, \$2,695,068.62; amount due depositors this date, \$2,525,709.62; estimate of interest accrued this date, \$36,300; any other debts or liabilities due or accrued this date, viz.: None.

Miscellaneous facts relating to the condition and conduct of business of the Mechanics and Traders' Savings Institution in the city of New York, as found upon examination made by direction of the Superintendent of the Bank Department March 31 and April 1, 1874.

ORGANIZATION.

Charter number of trustees? Twenty.

Number of vacancies? Two.

Number constituting quorum? Seven.

Officers elected or appointed from trustees? President, two vice-presidents, secretary.

Officers, clerks and other employees, not members of the board? Book-keeper and teller, janitor and watchman.

Standing or regular committees of the board, their powers and duties? Examining committee, who make a thorough examination of every item, etc., all through the book, and all securities, etc., every month, and report it to the board.

EXPENDITURES.

Salarses, current rate, viz.: President, \$4,000 per annum; secretary, \$4,000 per annum; book-keeper, \$2,800 per annum; teller, \$2,400 per annum; janitor, \$1,200 per annum; watchman, \$1,200 per annum.

Other expenses, basis of 1873: Rent, none; internal revenue tax, \$1,857.05; other taxes, \$778; Furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank-books, fuel, lights and attendance, other expenses, \$6,900.

CONDUCT OF BUSINESS.

Regular meetings of the board? Second Monday each month.

Average attendance 1873? About twelve.

Attendance of officers during business hours? President and secretary.

Attendance of trustees? One or two every day for a short time.

Application for loans on bond and mortgage, how made? To the president.

To whom referred? Finance committee.

Report on value of property, by whom made? Two members.

To whom? Finance committee.

In what form? Orally.

Are applications for loans on bond and mortgage filed or otherwise preserved? Yes.

Ditto of reports concerning value of property? Yes.

Action by vote or otherwise, by whom necessary before money is advanced on bond and mortgage? Finance committee have power.

Ditto of stock investments? Finance committee have power.

Ditto of call loans? Finance committee have power.

Ditto of deposits in bank? Board.

How or by whom are the companies designated in which insurance as security for loans on bond and mortgage is effected? Mortgagor, if the company is approved.

Is the opinion of your counsel ever taken concerning the legality of investments otherwise than on bond and mortgage? Yes.

Opinion in writing or oral? Oral.

At what period does interest on deposits commence? Quarterly from the first of January.

During what time must a deposit remain to be entitled to interest? Three months, and to this day 2-20 months.

By what form of action is the rate fixed or declared? Vote of board.

Is interest declared or fixed or promised in advance, or only at expiration of interest period? Expiration.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily? Profits.

Who is the responsible officer in charge of the conduct of business during business hours? President and secretary.

Hours during which bank is open? Daily from 10 to 3, and Monday and Wednesday from 10 A. M. to 7 P. M.

Who receive and pay money over the counters? Teller.

What memoranda or entries made by receiving teller of transactions? Ticket, deposit-book, pass-book and teller tickler.

What ditto by paying teller? Receipt, pass-book and draft-book.

Who revises and compares these with cash at close of business? Secretary.

How often revised and checked or compared by any other officer or committee? Examining committee each month.

In whose custody, or accessible to whom, are the securities of the bank kept? President.

How often and by whom examined? Examining committee every three months, or oftener, as they choose.

How is their correctness verified? Books.

At these examinations is the cash actually counted? Yes.

How is amount of cash deposited in bank ascertained by them? Bank-book.

Reports and statements of total cash received and disbursed made by whom? Secretary.

To whom? Board.

How often? Monthly.

In what form? Writing.

How and by whom verified?

Ditto of assets and liabilities? Ditto.

Bonds of officers, etc., viz.: Secretary, \$5,000; book-keeper, \$5,000; teller, \$5,000.

In whose custody? President.

Number of open accounts? Five thousand and sixty-nine.

Largest single? Ten thousand dollars.

Number exceeding \$5,000? Forty.

Average? Four hundred and ninety-eight dollars.

Are depositors allowed to draw checks upon their accounts? No.

By whom must the checks of the institution be signed? President and secretary.

Has any officer or trustee, to your knowledge, or according to your belief, ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? No.

Ira W. Gregory, a witness on behalf of the State, being duly sworn, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside? Brooklyn.

Q. You were a trustee of the Mechanics and Traders' Savings Institution of New York in 1874? A. Yes sir.

Q. Were you appointed on a committee of that body on the 13th of July, 1874? A. Yes, sir; I do not know the date.

Mr. TRACY — This witness having been examined before the committee, I can read a passage; page 111, at the bottom of the page, of the printed testimony. [Reads.] "Resolution of Mr. Gregory, submitted at the previous meeting in the matter of the reduction of salaries, was then taken up; and it was moved by Mr. Fenn that Mr. Gregory's resolution be referred to Messrs. Tappan, Gregory and Floyd to report to the next meeting as to the expediency of a reduction of salaries, and until the report of its expediency by the board, the salaries shall remain as at present. * * * It was then moved by Mr. Fenn that the salaries of the examiners be continued at \$100 a month until the committee report its expediency by the board." Now my question to this witness is: Did you proceed with Mr. Floyd to make any inquiries? A. Yes, sir.

Mr. CHAPMAN — Would it not be better to read the resolution appointing him?

Mr. TRACY — I have read it.

Mr. CHAPMAN — The resolutions submitted at the previous meeting?

Mr. TRACY — It will confuse it to bring the other thing in; any way, it is in the evidence.

Q. Tell us what you did? A. We went on and examined the bank.

Q. Did you look at the papers; what kind of an examination did you make? A. We looked at the books.

Q. Did you look at the securities, the documents in that examination, or at any examination you made on your committee? A. We did look at the books; yes, sir.

Q. Did you go through and ascertain what the condition of the bank was? A. We were examining for the purpose of ascertaining if we could pay a dividend; that was the object of it, sir; if we had earned a dividend; I think it was the object of the examination.

Mr. TRACY — I will read from the witness' testimony, on page 138 of the printed proceedings before the Senate Committee: "But you arrived at over \$200,000 of deficiency in 1874? A. Yes, sir."

Q. In what condition did you find the bank in respect of being insolvent.

Mr. MCGUIRE — To that we object. The witness should state the fact and not conclusions. The insolvency is a matter of opinion.

Mr. TRACY—I will change the question, to obviate that view of the subject. Q. What was the condition you found its total liabilities and its total assets in?

Mr. MCGUIRE—Mr. President, I object to that because the books themselves should be produced.

The PRESIDENT — The chair is of the opinion that the witness may state the amount of liabilities and amount of assets as he found them.

Mr. MCGUIRE—Mr. President, they appear from books, and if they appear from, and he says he examined them, these books would be the best evidence. I suppose it comes under the elementary rule, that the contents of a book cannot be given by parol.

Mr. TRACY—Mr. President, the rule being where you cannot get a quotation from the book by parol, can the result of the footing of a page be sworn to by a man that did it?

The PRESIDENT—The chair thinks the question is proper, but will submit it to the Senate.

Mr. CHAPMAN—Mr. President, we object to it on the ground that we do not want to get this evidence in twice. At pages 10 and 11 of the printed case, you will find the report already made, with the figures, and the amount of the deficiency. All this ground has been gone over, the witness examined fully in regard to it, and the fact is

as appears from the evidence, that he found three several amounts of figures.

Mr. TRACY—Mr. President, I have read all that, and I ask him now how he finds the assets and liabilities; all that is in here, and the gentleman has the benefit of it, and I have the benefit of it. It is proper I should ask the question here now. Indeed, I do not know that I shall argue any further about it. This committee went through this thing. At the first attempt to state it upon papers, some errors were committed, but ultimately they went through the matter and sifted it down very closely, and they got it down very accurately, and stated it in terms in the document which I propose to read in a moment, and I want to ask the first question, how they brought out the assets and liabilities finally.

Mr. CHAPMAN—I only insist upon the objection.

The PRESIDENT—The chair understood the counsel for the respondent to object on the ground that the question had been once put and answered. Is that so?

Mr. CHAPMAN—Yes, sir. The whole evidence—what he found, and the errors and all that appeared in this printed testimony before the Senate committee. I have no more interest than any Senator has in it. I understand this whole thing has got to be printed again, and to introduce this document again, and to go over the evidence again, it seems to me unnecessary.

Senator BRADLEY—On pages 8 and 9 is the report of these two men.

The PRESIDENT—If the counsel finds it in the printed testimony, the chair will rule it out.

Q. From the whole of your examination and scrutiny, how did you made out the assets and liabilities? A. About \$100,000 short.

Q. One hundred thousand dollars short? A. Short.

By Mr. McGUIRE :

Q. Deficiency? A. Yes, sir.

Q. Deficiency of assets? A. Yes, sir.

Mr. TRACY—I will now mention the evidence that is in the book, a certain complaint contained on page 72. It is in the form of a complaint by the people of the State against this institution by the Attorney-General.

Mr. McGUIRE—That is not a complaint by the Attorney General.

Mr. TRACY—Oh, yes, it is.

Q. By whom was this complaint prepared, or under whose direction? A. Mr. Bellamy, a lawyer; under the direction of Mr. Bellamy.

Q. That passage I referred to was on page 77? A. The book shows this complaint was prepared and taken to Albany with a view to be used; it was not used, in fact; on page 77 there are statements of resources and liabilities, beginning at the top of page 77, and before the fifth article of the complaint, viz., "that by reason of the premises."

Mr. TRACY read the fifth article of the complaint, to be found on page 77.

Q. Did you see Mr. Ellis after you made this examination?

Mr. CHAPMAN—That is in evidence.

Q. You did see him? A. Yes, sir.

Mr. CHAPMAN—That is in evidence.

Senator PRINCE—If the counsel will allow me, I simply want to inquire what the intention of reading this is, whether it goes in the minutes again as a part of the testimony of this witness?

Senator GERARD—For the information of the Senate, I will state, if at the convenience of the Senate, that here are many pages of this investigation of this case, I do not propose to read it over, or part of it, but to call attention, from time to time, in order that the evidence we do give may be comprehended. I shall object to the reading of that testimony, unless it is in connection with some question to be put to the witness.

Mr. CHAPMAN—This witness was on the stand three times, Mr. John McKeon representing one side of the case, and we representing the other, and he was examined and cross-examined in regard to these reports, and all of these books and papers in the printed testimony.

Mr. TRACY—I call the attention of the Senate to the letter of Mr. Cothren to Mr. Ellis at pages 38 and 39, dated October, 1874. On page 84 there is another short item which consists of a letter from Mr. Ellis to Mr. Bellamy, I will ask the witness whether, after that there was any paying up by the trustees.

Mr. CHAPMAN—That appears by the testimony.

The PRESIDENT—The chair will exclude any evidence that has already been given.

Q. Do you know whether any thing was done afterward of paying up by the trustees? A. Not to my knowledge.

Q. You don't know of any? A. No, sir.

Q. You had no knowledge of any? A. No, sir.

Mr. TRACY—I want the bank report for January 1, 1875. Mr. Lamb has not arrived, therefore I cannot introduce that now.

Q. I will ask you whether, in your investigations, you ascertained the market price of the North Carolina bonds.

Mr. CHAPMAN—That appears in the testimony.

Q. You were examined in regard to that? A. Yes, sir.

By Mr. CHAPMAN :

Q. And the value of them? A. Yes, sir.

Q. You recollect distinctly that was so? A. I might have misunderstood you.

Q. You testified what was done in regard to finding out the value of the North Carolina bonds; don't you remember the meeting of the board of trustees was gone into and what you did? A. I do not recollect that.

Mr. MCGUIRE—His testimony commences on page 21, I think.

Q. The prices you ascertained of them you put in your report?

Mr. TRACY—On pages 73 and 74, the Senators will find the report and value of some of those bonds.

Q. Did you go over this complaint and verify it? A. Yes, sir.

Q. I see you verify it by an affidavit? A. Yes, sir; September 29, 1874.

Mr. CHAPMAN—That appears in the evidence.

Mr. TRACY—It does.

The PRESIDENT—The chair will allow no repetition of testimony given before the committee, and the counsel will point out where the repetition is, if any.

Q. You remember you verified that complaint by an affidavit? A. Mr. Floyd swore to that complaint, I think; yes, sir.

Q. And the affidavit of your own? A. Then I made an affidavit, yes, sir; I do not recollect what it was exactly, but I made an affidavit, I think.

Q. I read it to you, so you can see if you remember it? A. After your reading it I remember it; I recollect of making that affidavit.

Q. What do you say of its being correct? A. It is correct.

Mr. CHAPMAN—I object to that.

Q. Look at the book which is here, and state what it is; what is that book handed to you? A. I think it is the minute-book.

Q. The minute-book of the trustees of this institution? A. Yes, sir; I think it is.

Q. How much did the banking-house cost? A. I put it in as costing, I think, \$66,725, to the best of my recollection.

Q. How much did the other houses in Brooklyn cost? A. One we bid in at \$14,000, and we had a bond and mortgage upon the other of \$5,000; I think that was foreclosed.

Q. Putting it at about \$6,000? A. I presume that is it.

Q. The banking-house \$66,725, and the others about \$14,000 and \$6,000? A. To the best of my recollection that is the amount we put it in for; it cost originally a good deal less money.

Mr. TRACY — On the assumption that the members of the Senate will read the cross-examination of this witness, and the examination of the other witnesses, we will take no time to ask any questions in regard to it.

William Floyd, a witness on behalf of the State, being duly sworn, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside? A. In Brooklyn.

Q. You were one of the trustees of this institution? A. Yes, sir.

Q. Were you a member of committee appointed July thirteenth? A. What committee?

Q. A committee under the resolution read here just now on the expediency of reducing salaries? A. Yes, sir.

Q. Mr. Gregory was on the same committee with you? A. Yes, sir.

Q. State what examination you made of the assets and liabilities of the bank? A. What the result was?

Q. What did you do in the first place?

Mr. CHAPMAN — Mr. President, all this evidence appears in the printed testimony; every question you have asked, and every answer he has given, and also what he has found out and what he did on this committee. I refer to page 44.

The PRESIDENT — The chair thinks the counsel should confine the examination to matters not examined before the committee.

Mr. TRACY — I design to do that as far as possible.

Q. Did you go to Albany when the complaint went up there? A. No, sir.

Q. Did you go? A. No, sir.

Q. Do you recollect the fact that you verified this complaint? A. Yes, sir.

Mr. CHAPMAN — That appears in evidence.

Q. I ask you if you recollect the fact? A. Yes, sir; the affidavit in the complaint was sent to Albany.

Q. Did you meet Mr. Ellis? A. Yes, sir.

Q. When and where? A. In New York.

Q. At what place?

Mr. CHAPMAN — That appears in evidence.

A. At Mr. Gregory's office in Cedar street.

Mr. CHAPMAN — You will find it on page 46; he was examined on that subject.

Q. Will you state what occurred at that time and place?

Mr. CHAPMAN — The very question was asked him, and is in the printed book. At the close of it he says, "That was about;" then on page 47 is the conversation more particularly.

Q. At Mr. Gregory's office, did any conversation occur, and if so, what, between Mr. Ellis and you?

Mr. CHAPMAN — That is in the printed book.

Mr. TRACY — My question now is, what conversation took place at Mr. Gregory's office? A. I do not know as I can state the conversation word for word; I do not know that I could state the conversation precisely as I did at the committee meeting at the hotel in New York, because I made no memorandum; but the purport of it was this, I said to Mr. Ellis that, as I had already, or we had laid the shaky condition of the bank before him at Albany, through our attorney, Mr. Bellamy, that we had come before him in order to argue with all the force we could the propriety of closing that bank, not only from the financial condition of the bank, but from the parties that had the control and management about it; that they were not the right sort of men; that the future would be worse for the institution if it went on; that was about the purport of the conversation.

Q. Now, tell us if Mr. Ellis said any thing, and if so, what? A. As near as I can recollect, Mr. Ellis was going on to examine the institution, and to do something to protect the depositors; and, either at that conversation or the conversation at the Metropolitan hotel, he said we were substantially right.

Mr. CHAPMAN — All that you have got in the printed book.

Q. What was it that he said? A. That we were substantially right.

Q. About what? A. In our report as to the finances of the bank.

Cross-examination of *William Floyd* :

By. Mr. CHAPMAN:

Q. Now, in regard to this statement about being substantially right; I will not examine you at length because all these points alluded to have been covered by the examination; did Mr. Ellis state your report to him, in which you claimed \$181,000 deficiency was substantially correct, there or at Mr. Gregory's office? A. No, we did not claim as much as that.

Q. How much did you claim? A. About \$100,000.

Q. The complaint you swore to had it \$115,000? A. About \$100,000, I think.

Q. In your complaint is not this the allegation that, in fact, the said debt or liabilities exceeded its assets in the sum of \$115,953.13?

A. I kept no memoranda.

Q. Isn't that in your complaint and sworn to by you? A. I could not tell you without looking it over.

Q. Did you have that complaint to show to him at that time? A. It must have been the complaint sent up to Albany; yes, sir.

Q. That purported to give the condition of that bank on the 1st of July, 1874? A. Yes, sir.

Q. In this complaint you put that deficiency at \$115,000 from your personal examination? A. I have said I do not recollect the precise figures, I think it was about \$100,000.

Q. You recollect that? A. Yes, sir; very well.

Q. You recollect that you made a report didn't you, to the trustees? A. Yes, sir.

Q. You recollect the amount of deficiency that you put in that report on the same examination and the same day from the 1st of July, 1874? A. I recollect the committee made a report.

Q. How much was it?

Mr. TRACY — Is that in the report?

Mr. CHAPMAN — Yes, sir; I offer to show by this witness, that he and Mr. Gregory on the examination of the affairs and condition of this bank on the 1st day of July, 1874, first reported to the bank a deficiency of \$255,000, then they found an error in that and they reported a deficiency after correcting it, of \$181,000, and then they found an error in that, and swore to a complaint in which the deficiency was \$115,000, and they found an error was in that, and subsequently reported a deficiency of about \$100,000, and left out during the examination \$102,000 cash that the bank had.

Mr. TRACY — The gentleman offers to show by the witness, by parol, the contents of four documents. If they are in the book they are not admissible, except as there in the book, and if they are in the book parol evidence of the contents cannot be admissible.

Q. In regard to his showing to you the deficiencies in that report, it was substantially correct, showing, as you claim, \$115,000? A. I did not say so.

Q. You claim \$100,000? A. Yes, sir.

Q. About \$100,000, that document you sent to Albany corrected as a deficiency? A. Yes, sir.

Q. He said this report of yours was substantially correct; had he made any examination of the bank? A. I think not, sir.

Q. At the time he said to you, or you claimed that he said to you, that your report was substantially correct, had he been to the bank and made the examination? A. I think not, sir.

Q. How could he say your report was substantially correct then if he hadn't made an examination? A. Well, sir, I did not think that was any thing marvelous for him from the position he held.

Q. He made an examination and found a deficiency of only about \$25,000? A. That was what he reported to us.

Q. Do you mean to say that he admitted to you that there was a deficiency of \$100,000 before he made an examination? A. No, sir.

Q. Or after he made an examination? A. No, sir.

The WITNESS — Am I allowed to make one explanation in reference to Mr. Ellis' affidavit?

Mr. CHAPMAN — Did you swear that he admitted to you that your report was substantially correct?

Mr. TRACY — I object to that.

A. I have no recollection of that.

Q. Was that question asked you before the committee? A. I do not recollect; I kept no memorandum.

Mr. TRACY — Make the explanation?

A. The explanation I wanted to make is, it is in reference to the affidavit of Mr. Ellis, at the City hotel in the city of New York.

Mr. CHAPMAN — Affidavit?

A. His examination; that was in regard to letters that my attorney wrote to him in relation to this matter; I think he stated there that I swore that I had frequent communications with him; I want to correct it—that is all; in my affidavit, I swore that, through my attorney, communication was had between Mr. Ellis, and not me; a little mistake there somewhere, that is all.

Mr. CHAPMAN — Mr. Ellis was correcting what the Governor stated in his message, showing his statement was correct, not yours.

Mr. TRACY — I must state to the President that I am going a little out of the order, next to prove certain documents that are not in the printed book, which requires Mr. Lamb from the department to bring them. Mr. Lamb said, at the department, on Saturday, there was a great deal of pressing business in the department, owing to changing of bonds, and it was important he should be there, and I suppose he would be here now, for, until I can get him and get those documents in, there are other witnesses, that I cannot call, therefore I will call Mr. Best out of order.

Wm. J. Best, being duly sworn on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside?

Mr. CHAPMAN — I submit whether the counsel ought not in justice to the Senate announce what he is going to prove, beyond what appears here.

The PRESIDENT — The chair has decided that a repetition of the

evidence of this witness before the committee is improper, but the chair is not able to say what evidence was given before that committee, unless the counsel for the respondent point it out, and then it will be excluded if it was brought out before the committee.

Mr. CHAPMAN — My suggestion was that my friend should suggest what evidence he proposes to go into, and then we could state whether it was in or not. Mr. Best was on the stand three times, and cross-examined in reference to these books.

Mr. TRACY — I do not propose at all to put in any thing we had before, but it is necessary for me to give the gentleman's name and residence, and identify him as the receiver to begin with.

Q. You live in the city of New York? A. Yes, sir.

Q. What is your profession? A. I am a merchant by profession.

Q. Are you the receiver of this institution? A. Yes, sir.

Q. Do you recollect when you were appointed? A. In July, 1876.

Q. What day did you enter upon your duties? A. Upon the fourteenth I took formal possession.

Q. Are you still in possession as receiver? A. Yes, sir.

Q. What examination did you give to the assets and books and papers of the institution after you got in possession?

Mr. CHAPMAN — All that appears.

Mr. TRACY — Pages 98, 99, 248, 249, 250, 251; he has given some facts on page 98, given the number of depositors. A great deal of it was excluded that was offered. See page 98. "Can you tell me what the deficiency was in this bank when you became receiver?" It was objected to and the question held not to be proper. I want to ask him that very question over again. In the first place, I ask you what examination you made into the assets and affairs of the bank at that time, and from that down to the present time? A. I have examined down to the present time all of the business of the bank from its organization.

Q. Are you able now to state how much the whole amount due to depositors is? A. From memory, it was about \$1,454,000; I can tell you exactly by looking. [Witness looked at the book, and, resuming, said:] \$1,453,923.97.

Q. How many in number are the depositors? A. I think about 3,300.

Q. Did you examine and compare the accounts of the dealers' ledger with the accounts of the cash and general ledger; the depositors' accounts, I mean? A. Yes, sir.

Q. State how you found that? A. I found the dealers' ledger showed the amount due to the depositors, in excess of the sum on the general ledger, \$79,772.31.

Q. Did you find, in an examination of the books, any alteration in the dividend-book? A. Yes, sir.

Q. Showed what they were? A. In the dividend credited to the depositors on the 1st of January, 1873, there is an alteration — not an alteration, but some writing up in the general ledger; \$2,211.63 less than appears on the dividend-book.

Q. Are there others? A. There is but one other; there has been some considerable amount, a few hundred dollars, which may have originated in errors, and the last dividend paid written to the creditor's account January 1, 1876; there was a difference of \$2,036.68.

Q. In which way? A. The dealers' ledger had been credited in the individual accounts \$2,076.68 more than was written up in the general ledger.

By Mr. CHAPMAN:

Q. That may have been an ordinary mistake? A. No, sir; the figures had been altered.

Q. Have you the book here that will show the alterations of the figures? A. Yes, sir.

Q. Proceed to show; state so that the Senators may understand it by listening? A. The dividend-books are numbered from one to six respectively, and the footings of each book are brought on the last page of the last book, and the whole added together gives the amount of the entire dividend for the period of six months. In this book No. 1, has been changed from \$10,572 to \$9, 737.42; Book No. 5, appears to have been changed from \$13,515.55 to \$12,568.55; Book No. 6, appears to have been changed from \$10,768 — a slight error here, of no consequence — \$10,772.98, the error being in the footings; the difference is \$2,036.

By Mr. CHAPMAN:

Q. That is a difference of ninety-two dollars, about? A. Yes, sir.

By Mr. McGUIRE:

Q. Is this the original book? A. Yes, sir, from which the figures are taken off to the ledger.

Q. Will you give the particulars about that change, where you say there was more due to the dealers than to the others; turn to that, if you have it before you, so that we may understand the particulars; you mean the large sum? A. I do not understand your question.

Q. You spoke of the difference between the general ledger showing how much was due to the depositors and the depositors' ledger? A. Yes, sir.

Q. What date is that ; some time in October, 1874? A. No, sir; that is at the time I took possession in July, 1876.

Q. Have you that paper, the book itself? A. Yes, sir.

Q. Give us the figures of that? A. I have stated them.

Q. At what date was that? A. That was of the date of the 14th of July of the day of my taking possession as receiver.

Q. The 14th of July, 1876? A. Yes, sir.

Q. That covered all the past down to that time? A. Yes, sir.

Q. Can you state whether in examining the books you found any instance in which a dividend had been declared in excess of the income? A. Yes, sir; it was a frequent occurrence.

Q. Give us those facts, and what the excess was in each case? A. The dividend for July 1, 1873, exceeded the income and expenses by \$6,269.76; and the dividend of January 1, 1874, \$10,085.55; the dividend of July 1, 1874, \$8,217.33; the dividend of January 1, 1875, \$17,448.92; the dividend of July 1, 1875, \$17,483.75; the dividend of January 1, 1876, \$12,286.95.

Q. What is the footing of all those? A. Seventy-one thousand seven hundred and ninety-two dollars and thirty-six cents.

Q. For how many years? A. Three years; I am not a dealer in stocks; did not own any, in fact.

Q. You only get your information of stocks from hearsay? A. No, sir; on some of the stocks I got it from the official records; in others I take it from dealers; in all cases I require them to give me a certificate, so that in making calculation for the basis of any report that I may be called upon to furnish, I could fall back upon the informant.

By Senator GERARD:

Q. You have not made stocks a matter of special examination? A. No, sir.

Q. Not as receiver? A. No, sir; not all.

Q. You do not know any more than anybody else, than any other ordinary inquirer in reference to stocks? A. No, sir.

Q. Have you gone through the books to see what the cost of the bank building was stated at, at what its actual cost was? A. Yes, sir.

Q. State it? A. It appears on the books of the bank; the general ledger has for that cost \$79,027.50; included in that cost are \$929.15 entered as the expenses of the building committee, and balance of old bank account \$2,249.50.

Q. What was that? A. I can only give you an opinion.

Q. Did you ascertain what it was? A. I suppose it was a loss upon some; I do not know what it was; "To Jacob L. Fenn."

Q. He was a trustee? A. Yes, sir.

Q. "To the building committee, \$5,000, for their services."

By Mr. McGUIRE:

Q. How many years ago were these purchases made? A. The entry of \$5,000 was made in 1868.

Q. The ones you have made were anterior to that? A. Some of them dating back in 1864, I think.

Mr. McGUIRE—I submit whether this proof is admissible or competent here on this investigation?

Mr. CHAPMAN—It was under Mr. Schuyler's superintendence. I Mr. Schuyler was on trial it would probably be competent as against him.

Mr. TRACY—The question is whether there is any desire to know how utterly insolvent this bank was, and the depths of that insolvency is one that we should inquire into.

Mr. McGUIRE—Mr. President, I do not understand that proof was offered for the purpose of showing insolvency. It was offered for the purpose of showing an illegal act—a dealer of the bank with one of its trustees thirteen or fourteen years ago. That was what I supposed was the object of the proof.

Mr. TRACY—It has no right to be on their ledger as a part of the cost of the bank at all.

The President submitted the question to the Senate, and it was decided to receive the evidence.

Q. Proceed, if you please? A. The committee on alterations—in the first instance the building was only one story in height; some years later they added a second story; the committee having charge of it were voted \$2,000—\$500 each.

Q. That is charged in the cost of the bank? A. Yes, sir, as a part of the \$79,000; the last entry is one of \$12,000, made in December, 1872, as a part of the loss incurred upon a loan made on Atlantic Mail stock as security; the loan had been made some time previous to that, and had been carried along from time to time, and this portion of it, \$12,000—\$29,000 was charged to the bank account, but \$17,000 of it was subsequently returned by the sale of stock held by the bank as collateral, leaving \$12,000 still appearing as a part of the costs of the building.

Mr. CHAPMAN—This, I understand, was under Mr. Howell's term? A. Yes, sir.

Q. What is the amount you have given us now? A. Twenty-two thousand four hundred and twenty-eight dollars and sixty-five cents.

Q. That deducted from the ledger account would leave how much ?
A. Fifty-six thousand five hundred and ninety-eight dollars and ninety-five cents.

Q. Did you find out at what price the bank had been assessed by the assessors ? A. Only by the tax I paid last year.

Q. Did not pursue it back ? A. Yes, sir. I have the assessors, receipts.

By Senator GERARD :

Q. Did you get these figures from the ledger ? A. No, sir, I have, traced all these figures from the ledger into the various accounts.

Q. Then there was no account showing the construction of the bank ?
A. Yes, sir, there is an account showing the construction of the bank.

Q. Do these matters figure in it that you have just stated, these sums paid trustees ? A. Yes, sir, as a part of the \$79,000.

Q. Is there any account which shows to the examiner the manner in which the expenses for the building were made ? A. Oh, yes, sir.

Q. By a distinct account ? A. Would have to examine the entries made from time to time; these entries are all made in detail in the ledger.

Q. Are they in one account ? A. Yes, sir.

Q. What is the heading of that account ? A. New bank account.

Q. What year does that cover ? A. From 1862—I think, February or March.

Q. Down to when ? A. Down to the present time.

By Mr. CHAPMAN :

Q. Down to 1872 ? A. Yes, sir.

By Mr. GERARD :

Q. What do all these figure up that you have read in connection with the construction ? A. Every thing connected with the construction figures up \$56,789.98; everything charged to it figures up \$79,027.57; the balance appears there as assets, no change made.

By Mr. CHAPMAN :

Q. All these books were prior to Mr. Ellis' administration ? A. Prior to December 1, 1872, or up to that date.

Q. So far as Mr. Ellis' administration is concerned, there is nothing to send him through that account than any other account ? A. No, sir.

By Mr. TRACY:

Q. That sum that you mentioned of \$2,000 and a little more, the difference between the two ledgers, between the account of dividend, what was the rate of dividend at that time? A. Five and six per cent.

Q. A year? A. Yes sir; they paid five per cent on one class of deposits — those over a certain figure — and six per cent on smaller sums.

Q. A half year's dividend was two and a-half and three per cent? A. Yes, sir.

Q. That sum was of \$2,000 and \$2,200 is another? A. Yes, sir.

Q. On dividends, how much capital would that represent, on the dividend? A. It would make a difference of probably \$70,000; somewhere in that neighborhood.

Q. Such a figure as that would really cover \$70,000 of liabilities; would represent \$70,000 of liabilities? A. Yes, sir.

Q. On each of those dividends? A. Yes, sir.

Q. Have you looked into the costs of the property No. 31, in Brooklyn? A. Yes, sir.

Q. State what the figures are about that?

Mr. CHAPMAN — Are we going over that again?

The PRESIDENT — The chair adheres to its ruling.

Mr. CHAPMAN — There were witnesses called on this very question, at New York, on the value of this Brooklyn piece of property. The other side called all the witnesses they wanted; we called enough to more than meet their witnesses. Now, I want to know, simply, whether my friend proposes to open the door again and call additional witnesses to prove the value; we want to know what the Senate is disposed to do in regard to that. Witnesses were called on both sides of this very question; they exhausted all they wished to, and we met it and more too.

Mr. TRACY — The question is not on the ground that this witness was not examined on this question.

Mr. CHAPMAN — It is on the ground, it is repeating the question of value of the real estate.

The PRESIDENT — How many witnesses were examined on the question?

Mr. CHAPMAN — I think we had three or four, and they two; I know we overbalanced them.

The WITNESS — We had two and you had three.

By Mr. TRACY:

Q. I am asking the witness what he found in the books upon the subject; now, Mr. Best, proceed; will you state now about the Brooklyn property; it is put down at about \$27,000; see what the bank put it at? A. At what period; I cannot give you the period, it is carried down to sometime.

The WITNESS — We have that property still.

Q. What do the books show, take it at the time the account closed, that will be near enough? A. It stood on the books as having cost the institution \$25,101.28, on the 21st of March, 1876; that was the last entry in the real estate book on the subject.

Q. That was the cost on the books? A. Yes, sir.

Q. Was not it in a statement put in at \$27,000? A. I do not know.

Q. Will you tell us some charges made in that account?

By Mr. CHAPMAN:

Q. That \$25,000 includes all there is against it? A. Yes, sir; and up to the twenty-first of March, take the rents received from the property, giving the debts simply; sum total is \$27,322.21, rents for May, June, July and October; on one side you have the cost of the building, taxes, and charges.

Q. And on the other side you have the rents received? A. Yes, sir; and I deduct the one from the other and give you the sum.

Q. The sum total cost of the building appears to be \$27,322.21? A. Yes, sir.

Q. Take up and give us the charges as they appear in that account? A. After the purchase of the property.

Q. Yes, sir; how much was the first purchase-price as put down? A. As the amount of mortgage, \$15,000; that was the sum loaned upon the property.

Q. The amount of the mortgage? A. Yes, sir.

Q. Did the bank buy it on a mortgage sale? A. Yes, sir.

Q. What was the bid? A. I think, including the taxes then due, and interest, and expense of foreclosure, somewhere about \$14,000, and out of this they obtained the judgment which is good, \$5,000.

Q. It is now about \$15,000, the first price? A. No, sir; it is down more than that; that was the amount of the mortgage, and then we had the interest due up to that date; also the taxes and the foreclosure costs, which aggregate \$18,775.41; that appears as the first cost to the bank.

Q. What is the next charge? A. There are numerous charges; I can give you simply what has been put in since the property was

bought; they have added to it \$3,559.47 for repairs, keeping the property in condition; they have added to it in interest on the original \$15,000 mortgage, \$3,412.50.

Q. How about the taxes? A. They go in as a legitimate part of the cost of the building.

Q. What were the return of taxes yearly? A. The aggregate return of taxes since the date of the purchase of the property, \$2,560.88; that is a legitimate charge against the property.

Q. Those are added in it? A. These all form a part of that account.

Q. All the items are in? A. Yes, sir.

Q. Was that account carried out before you received any rents? A. Yes, sir.

Q. How much? A. Two thousand two hundred and twenty dollars and ninety-two cents.

Q. Is there any other piece of property? A. Yes, sir; the bank owns two other pieces of property.

Q. Did you examine the account as to the loans? A. Yes, sir.

Q. To see what their costs were? A. Yes, sir.

Senator GERARD—I will ask the counsel what is the object of the examination?

Mr. TRACY—To show how enormously insolvent the bank was all this time.

Senator GERARD—They were all overrated as assets.

Mr. TRACY—Yes, sir.

Mr. CHAPMAN—This is giving the cost merely as appears upon the books; they may be worth three times that.

Senator GERARD—I consider this testimony unnecessary.

By Mr. TRACY:

Q. I will ask you generally whether you found in the other cases of real estate any difference between the cost—between the ledger and the cost, with items of this description taken out? A. Oh, the method of keeping the account was the same in all cases.

Q. What? A. The method of keeping the accounts of real estate, such as had foreclosure sale, was the same in all cases; if it brought an income it was credited to it, and if any disbursements were made, or assessments, or repairs, it was added in and the difference was usually regarded as the cost of the property.

Q. Since you have been the receiver, have you made any dividend? A. Yes, sir; have made two dividends.

Q. To the depositors? A. Yes, sir.

Q. When were they made? A. The first was October 3, 1876, and

the second December 26, 1876; the first dividend was sixty per cent, and the second dividend fifteen per cent.

Q. From your examination of the assets and the liabilities of the institution, how much more in your judgment, will the assets pay?

A. They will pay about ten per cent more, the assets themselves; that has no reference to any claims against trustees.

By Senator PRINCE:

Q. I would like to ask one question in connection with this last; about what has been the expense of the receivership? A. I cannot tell you that until my final accounts are rendered; I do not know what I myself will be allowed by the court; my final account will be presented probably in August.

Q. What have been the expenses up to now? A. The only expense I have been to are those of clerk hire and counsel fee; my disbursement for counsel fee up to date have been less than \$2,500, and for clerk hire I should say about \$7,000 to \$8,000, and then there will be little incidentals; it will be safe to say probably the expense, not counting the receiver, will be under \$12,000 to date.

By Mr. CHAPMAN:

Q. Speaking about the examiner examining this bank building account, you went in there the fourteenth of July, as I understand you, and you made a report to the depositors as to how you found things as soon as you could? A. Yes, sir.

Q. That was not until September following? A. September following.

Q. You had a large number of clerks assisting you in finding out the condition of the bank? A. I had from three to five clerks.

Q. And you were two or three months at it? A. Yes, sir.

Q. You and your assistants have worked ten or twelve hours a day? A. Yes, sir, fifteen hours a day.

Q. Did it ever occur to you what number of books a superintendent and examiner could go through with, as you did this? A. He could not go through a great many of them.

By Senator ST. JOHN:

Q. I would like to ask you how long it took you to find out this bank was insolvent after you got possession; I think an examiner could find out whether a bank is insolvent; I want to know how long it took you to find out this bank was insolvent to a large amount?

A. About ten days.

The Senate hereupon adjourned to Tuesday morning, July 31, 1877, at 10 o'clock.

SARATOGA SPRINGS, *July, 31, 1877.*

The Senate met pursuant to adjournment, a quorum being present.

William J. Best, being duly recalled on behalf of the State, testified as follows:

By Mr. TRACY:

Q. Mr. Best, do you wish to make any correction of any part of your testimony given yesterday; if so, you may do it? A. I would correct the date of the \$12,000 charged to the new bank account; in looking over the ledger, I find that in transcribing the mistake of a year was made; it should be December 30, 1871, instead of December 31, 1872.

Q. Have you examined the values of those southern securities which were in the assets of this bank, to see whether they changed from 1874 down — 1875? A. There was very little change in those southern securities between 1874 and 1876; they remained almost the same; toward the beginning of 1876 there was a fall in them; considerable fall, but for perhaps one-half of that period they remained almost stationary; almost stationary during the last half of 1874.

Q. You were asked the question by a Senator yesterday, how long it would take an expert man like yourself, a book-keeper, going into the bank and examining its books, to find it was insolvent? A. The answer I gave covered the exact deficiency; my answer was intended to cover the exact deficiency that existed; to ascertain whether such a bank as this was insolvent ought not to take more than a day; it is only necessary to take the liabilities as they appear upon the books and the assets at their market values, as nearly as those can be ascertained; probably a day or two days, according to the variety of securities and the amount of research which it would be necessary to make.

Q. How much time would it take to find out about the dividends being in excess of their profits? A. I should say a man ordinarily rapid in his calculations could ascertain the income of any of these institutions in a day; all the interest-bearing securities are entered on the books; the rates of interest that each class of security pays appear upon the books, and he has merely to calculate the time from which the institutions held them down to the date of his examination; adding the sums together he has the income; of course, the expenses and disbursements are always matters of record; I should say it would be a very easy thing for a man to do it in one day.

Re-cross examination by Mr. MCGUIRE:

Q. Mr. Best, suppose their bonds and mortgages are all paying interest, either annually or semi-annually, and the bonds or stocks

that they have are paying interest annually or semi-annually, and suppose that the mortgages, if foreclosed, that the real estate covered by the mortgages would not bring the amount of the mortgages, would you call that bank insolvent? A. The whole amount of the mortgages?

Q. Suppose that the mortgagors paid the interest upon the mortgages regularly, but in these items if there was a forced sale of the property it would not bring the amount of the mortgage, would you call the bank insolvent? A. No, sir; it would depend entirely upon the character of the stock to meet the liabilities; where the interest is paid on mortgages promptly in these times, the inference is a just one that that is a good mortgage in all cases.

Q. But suppose you had to foreclose the mortgage for the non-payment of the principal, and the mortgaged property would only bring half of the amount of the mortgage — suppose such a result should follow, and you knew it would follow when you commenced the foreclosure, would you call the bank insolvent? A. It would depend upon the amount of the losses upon the mortgages; mortgages usually represent only a portion —

Q [Interrupting.] Take my hypothesis; would you call such a bank insolvent? A. No, sir, but —

Q [Interrupting.] Suppose this interest was paid, annually, upon these bonds or State stocks, but to put those State stocks into market they would not bring their face or par value, would you still call it solvent? A. Yes, sir.

Q. That is even if the interest was paid? A. Yes, sir; stocks are worth simply what they will sell for.

Q. So is a mortgage, ain't it? A. Well —

Q [Interrupting.] Oh, answer the question? A. Yes, sir; it is worth what it will sell for.

Q. How do you draw a distinction between the mortgage and bonds if both are worth what they will sell for? A. The one is negotiable, passing from hand to hand, and the other is something that involves a great deal of investigation as to the question of title, which affects the value of the security.

Q. That is the way that you make that out? A. Yes, sir.

Q. Let us take a certain stock; suppose six months ago a savings bank should invest in Delaware and Lackawanna, or Delaware and Hudson stock; then stock was par? A. Yes, sir.

Q. Say it fell to forty-five, as it has, then would you call that insolvent? A. Yes, sir; on that item.

Q. If they had no surplus it would be insolvent? A. Yes, sir.

Q. Now, then, suppose that the superintendent put the bank into

the hands of the Attorney-General to wind up, and before he got his papers served the stock came up to par again, what would you call it then? A. Solvent.

Q. So its solvency or insolvency depends upon the fluctuation of the market value of that stock? A. Yes, sir; of the security; different classes.

Q. Not upon their intrinsic value, but upon the fluctuating market value? A. Yes, sir; upon the fluctuating market value; that's the only guide I have.

Q. But if the company or corporation or municipality paid its interest promptly, would you allow the stocks to remain, rather than to sell them at a sacrifice? A. You are asking a question simply as to what I would individually do.

Q. I am speaking as a business man — you as the representative of a bank? A. I would prefer to sell all such securities, as a representative of the bank.

Q. That is if they were represented in a savings bank that they were at par when purchased, and by reason of fluctuation in the market, when they got down to the lowest figure you would sell, would you? A. Provided the State or the company whose securities I held was such as to satisfy me that the stock was then worth only the price at which it was quoted.

Q. Suppose you held such stock yourself, would you sell at such a sacrifice, personally? A. Yes, sir; I would do so, and I advised my friends last week to do the very thing you ask me about.

Q. That is if you paid a hundred cents for stock and the next day it got down to twenty, you would sell for twenty? A. Yes, sir; such stock as this; I have not owned any of this, but I am telling you what I would do.

Q. But, as a manager of a bank; would you sacrifice a bank by a sale at that low figure? A. I would sell all such securities.

Q. I am speaking of you representing a bank, would you sacrifice a bank by selling its stock at such a low, depreciated figure? A. Yes, sir; I would sacrifice a bank in the sense in which I understand you.

Q. It would sacrifice the bank, wouldn't it? A. Yes, sir; it would.

Q. Well, now take in 1873, when stocks began to tumble down, and real estate began to depreciate, and in fact there was no market for real estate, would you put its bonds in the market for sale at any price you could get? A. Oh, no; no, sir; in a time of panic no man managing his own affairs wisely, or those of a trust, would sacrifice in that manner, but in a time of ordinary business, of course, the case is altered.

Q. There has been a panic in real estate and stocks since 1873, has there not? Yes, sir; very serious.

Q. And you would regard it in the management of a bank, or in the management of your own business, as not conducive to the interest of the bank depositors, or of yourself, to throw real estate and stocks upon the market at such times? A. Yes, sir.

Q. That if you would not regard it as safe, prudent or expedient? A. No, sir.

Q. You know, Mr. Best, if a bank was put into the hands of a receiver that loss would be the effect; all of its assets would have to be converted into money as soon as possible? A. Yes, sir, that is the rule.

Q. Being so converted into money it would be of a great sacrifice? A. If taken at such time as you speak of.

Q. I am speaking of such times as has been since 1873? A. Yes, sir.

Q. Although there has been this state of feeling you speak of, there has been also a corresponding feeling since 1873—a hope that times would change, has there not? A. Yes, sir.

Q. And the price of stocks and real estate would appreciate? A. Yes, sir; some class of stocks have advanced very greatly; all good, safe investments have risen since 1873.

Q. Now, you say, it would take a man a day to find out whether the bank was solvent; that is to look over the books; you now answer that question put to you by the counsel for the State upon the assumption that all the entries in the books are correct? A. True, sir.

Q. But if the entries were not correct and you had to verify the account upon the book, it would take a longer time? A. Yes, sir, proportionate to the amount of falsification in the entries in the books.

Q. Now, that is when you found its liabilities? A. Yes, sir.

Q. Now, to get at its assets it would involve some inquiry; if they owned a large quantity of mortgages; as to the value of the real estate covered by the mortgages? A. Yes, sir; unless he takes as his guide the effect of the prompt payment of the interest; the bond-book in all these institutions shows whether or not the interest has been paid promptly, and as I stated a moment ago, it is a just inference when the interest is promptly paid that the property is ample security for the amount of the lien; in this bank—

Q. [Interrupting.] But there has been opportunities that, notwithstanding the interest has been promptly paid, that the pressure of times would prevent its payment? A. [Interrupting.] Oh, yes; that is quite possible.

Q. Well, now, I will ask you a general hypothetical question—it may not be a hypothesis, but as a fact connected with this bank, or with your experience, have you not known of cases since 1873 where the interest has been paid promptly, and a portion of the principal (say one-third or one-half of the principal) that the mortgagor has suffered the property to be sold for the remainder? A. I have no personal knowledge of such a case; in this bank the mortgages were of an exceptionally good class.

Q. And the interest was promptly paid? A. Yes, sir; there were no foreclosures at all, except in a few cases where the interest was in arrears.

Q. The seeming or real solvency of this bank, consisted in the depreciation of the market value of stocks? A. Yes, sir; a certain class of securities it held.

Q. Aside from the entries that you referred to yesterday, you found the state of things and affairs in this bank pretty correct and accurate? A. Oh, yes, sir.

Q. You found these little discrepancies that you mentioned? A. Yes, sir.

Q. Can you tell, Mr. Best, when the stocks which this bank owned commenced to depreciate? A. The stocks upon which its losses occurred were simply those of southern States; some of them had paid no interest for many years; I think the North Carolinas paid no interest for a period of eight years, and the Alabama bonds had been in default for a considerable period; so had the South Carolinas a five years and Tennessee's, perhaps, a year; and, of course, when they ceased paying interest, the stocks began to fall; the market value became reduced.

Q. There was another element affecting their value besides the non-payment of interest? A. Yes, sir; the element was that of repudiation; the States claimed that certain of the securities were illegally issued.

Q. That claim was put forward merely for the purpose of repudiation? A. Yes, sir.

Q. Now, when these stocks or bonds were purchased, have you looked at the bank-books to see whether the States did, for some time after the purchase, pay their interest? A. Yes, sir; in some cases, yes, and in other cases, no; they never got any interest on the North Carolina's; the interest that accumulated was funded into new bonds of two classes.

• Q. Have you an acquaintance with securities generally held by savings banks at that time, or were you in 1873? A. No, sir, I had nothing to do with any savings bank.

Q. Do you know of the fact from your own knowledge, or coming to your knowledge from official sources in any way, that almost all the savings banks at that time in New York had large investments in these southern stocks? A. Yes, sir; I have that information from official sources.

Q. And many of them had large stocks in the whole of those that you mentioned? A. Yes, sir.

Q. Now, Mr. Best, I will ask you whether it was possible for any superintendent to foresee that these southern States were going to repudiate these bonds? A. No, sir; the repudiation took place—

Q. [Interrupting.] I am speaking before— A. [Interrupting.] Oh, no; they couldn't foresee.

Q. Or the trustees of the savings bank? A. No, sir; they couldn't foresee what they were going to do.

Q. It would be utterly impossible for any person to see what depreciation would follow the act of the States in their repudiation? A. Certainly.

Q. Do you understand that all these stocks—Alabama, South and North Carolina—all are repudiated absolutely by the States? A. No, sir; there are recognized bonds and repudiated bonds.

Q. I am speaking of the class this bank held? A. Yes, sir; the North Carolina bonds are all recognized; of the South Carolinas—\$141,000 were repudiated and \$14,000 were recognized; of the Alabamas, all (\$160,000) were repudiated; the Tennessees are all recognized by the State as a valid obligation.

Q. Have you such information as to lead you to tell that the repudiation is permanent or only temporary? A. That I cannot tell.

Q. I didn't know but you had corresponded in order to find it? A. Yes, sir; I have not only corresponded, but I have gone into those States; they say positively that they will not do any thing with them; but the next Legislature may change all that.

Q. You had some books here last evening—dividend-books? A. Yes, sir.

Q. Let me see No. 6, first [witness produced the same]; whose figures are those? A. The figures of one of my clerks; these are his corrections as taken from the several books.

Q. This column here on the left-hand is of your clerk? A. No, sir; that is by one of the clerks of the bank; these figures here [indicating] are made by my clerk.

Q. Are these [indicating] also the books of the bank? A. Yes, sir,

Q. You think all this page [indicating] would be the figures of the bank? A. Naturally that would be the inference.

Q. Now, you see on No. 6, as you stated last night, the footing in the right-hand column is \$10,772.98; you stated in that there had been an alteration? A. Yes, sir.

Q. That is the footing in the right-hand column? A. Yes, sir.

Q. The footing in the left-hand column is \$10,768.36? A. Yes, sir.

Q. That is the same amount carried over here as the correct footing? A. Yes, sir.

Q. All there would be of that then, is that the bank officers had made two columns of figures; one they had footed up wrong and one right, and they are both carried over here, one being designated as "incorrect footings" and the other "corrected footings?" A. Yes, sir.

Q. Take No. 6; the erasure you spoke of — A. [Interrupting.] There is a difference there of only four dollars; it doesn't amount to anything; it seems to have been made in No. 5 and No. 6.

Q. All these figures on this book are in pencil? A. Yes, sir, or generally half in pencil.

Q. Made temporary in pencil? A. Yes, sir.

Q. Let me look at No. 1; the footings there in both columns, or both columns of figures, are in the handwriting of one of the clerks of the bank? A. No, sir; that [indicating] is and that [indicating] is not the handwriting of my clerk; all the blue figures are in the handwriting of my clerk.

Q. But the other is in the handwriting of some one in the bank? A. No, sir; I will show you how it is done. [Witness here explained to counsel, inaudibly to the stenographer.]

Q. The figures are right here but the footings are wrong? A. Yes, sir, I believe the figures are correct and the footings wrong.

Q. No. 1; all there is about it is they have a column of figures, \$9,537.42, and when your clerk took the column and footed it up it made \$10,522.48? A. Yes, sir, and then we added in the little difference here, which made it \$10,507.72.

Q. This is an error of footing; whether designed or not you have no means of knowing? A. No, sir; I see there is an alteration there.

Q. And this is all in pencil? A. Yes, sir.

Senator COLE — I would like to know whether one class of these footings were made before the transfer of the bank to the receiver, and the other afterwards.

Mr. MCGUIRE — Yes; those in the handwriting of the clerk of the bank before, and those in the handwriting of the clerk of the witness after and as appearing upon the face of these books, it is a mere error in the footing.

Q. For what year is this? A. That is the last dividend paid

January 1, 1876; that is Book, No. 1, so it is of the last dividend; there are six books in that dividend.

Q. Let me look at No. 5; more stress seems to be laid upon that than upon any other one; the last dividend was January, 1876? A. Yes, sir.

Q. This right-hand column of figures, in the handwriting of the clerk of the bank? A. Yes, sir.

Q. And on the left hand your clerk? A. It is all in the handwriting of the clerk of the bank.

Q. In the figures as written by the clerk of the bank, in footing them up the clerk of the bank made \$12,568.55? A. Yes, sir; that is the footing.

Q. But when your clerk footed them up he made it \$13,515.55? A. Yes, sir.

Q. It was a mere difference then, in the addition of the figures by the two persons who made the addition? A. Yes, sir.

Q. All these entries are in pencil? A. Yes, sir; all on the dividend books.

By Senator Cole:

Q. Were these last series of figures made with a view to test the correctness of the other figures you found when you went in? A. The re-adding in all cases; we had to check them in that way to determine the question.

By Mr. McGUIRE:

Q. I see, then, six books; in three of them there seems to be an error in the footing, and in three of them there is no error? A. Yes, sir.

Q. That is the question it stands? A. Yes, sir.

Q. But in the figures that are put down for the purposes of addition, there is nothing strange or unusual in the figures? A. No, sir.

Q. In these pages they footed up each page and carried it forward? A. Yes, sir.

Q. And when they carried forward, in getting the whole number they footed them up? A. Yes, sir.

Q. And the additions to every page are correct, but the error consists in the final addition of the aggregate sums? A. Yes, sir; that is the idea exactly.

Q. And that is so uniformly in every book; in the addition of each page the additions are correct? A. There are no errors there to speak of.

Q. It is in the final summing up of the aggregate pages that you find these errors? A. Yes, sir.

Q. Now, how long was your clerk — and I suppose he was competent — in footing up the six books? A. I couldn't tell you, really.

Q. You have some idea how long it would take a man to check these books and these large number of pages? A. I could hardly tell you the length of time, for he did this only between times, while the pass-books were being balanced.

Q. Taking the periods representing one dividend of January, 1876, could the clerk do it in a day? A. No, sir, I don't think he could; it is a class of work which necessitates a terrible strain on the mind; I should say it would take him from ten to fourteen hours; he couldn't work at it steadily for that length of time, as there are so many columns of figures.

Q. You found a large number of this class in your office, I suppose? A. There was from five to six in each dividend.

Q. It would take a man from twelve to fourteen hours to go over one dividend? A. Yes, sir.

By Senator KENNADAY:

Q. He couldn't devote that much time to any one? A. No, sir; it keeps the mind so constantly on the strain.

Q. He would have to take a respite? A. Yes, sir; he had to add up from 3,000 to 5,000 lines of figures, especially when some of them are indistinct it takes time.

By Mr. McGUIRE:

Q. There is another thing you would have to do; in taking the books of dividend in order to have a complete job of it, you would have to compare the dividends in the book with the depositors' books? A. Yes, sir.

Q. That would take a long time? A. Yes, quite a time.

Q. The depositors' books are not all in? A. No, sir; they don't affect the writing up of the dividend; there are some of the books that will not come in use for a long time.

Q. That comparison has to be made with the book and the depositors' books, so you can get at the amount with certainty? A. Yes, sir.

Re-direct by Mr. TRACY:

Q. Will you look at this book, No. 1 [on the last page it is written], and look at the heading "total footings of this book," and state whether the third item, which is \$40,887, has been written, that was first rubbed out, but yet visible on close inspection? A. It has been altered, but I think that was the error of the clerk in putting it \$4,000.

Q. Wasn't that a "I"? A. No. sir; I should say that was a "4."

Q. Is 408 right? A. Four hundred and eight dollars and eighty-seven cents is right, sir.

Q. How was that column footed, first, before it was rubbed out?

A. Do you mean the aggregates?

Q. The same column of the aggregate footing? A. It seems to have been 10 and some hundreds; 10,520 something.

Q. And how is your correct footing? A. The correct footing is \$10,507.72.

Q. And how is the footing which stands on the book here? A. Nine thousand five hundred and thirty-seven dollars and forty-two cents.

Q. That is the footing of a column consisting of five lines, isn't it?

A. Ten lines.

Q. And each of these sums is carried to the other ledger? A. The smaller sum.

Q. The smaller sum, and not the true one? A. Yes, sir.

Q. And now in regard to the other book produced here; turn to the summary there, Book No. 1, page containing the total footings of all the books, and look at the first item, and state how it is carried in there — the footing of Book No. 1? A. Nine thousand five hundred and thirty-seven dollars and forty-two cents.

Q. And that is the false footing is it? A. Yes, sir.

Q. The correct aggregate of the whole six books, as footed by the bank? A. Five hundred and fifty-seven thousand and twelve dollars and twenty-three cents.

Q. What is the true aggregate footing? A. Fifty-nine thousand and forty-eight dollars and ninety-one cents.

Q. What is the difference between the two? A. Two thousand and thirty-six dollars and sixty-eight cents.

Q. In both cases you find the appearance of a corrected footing once and then rubbed out and another footing put in, do you? A. Yes, sir.

Q. Now, you were asked as to your information about savings banks holding certain securities; have you any knowledge or information that such institutions as the Seamen's Savings Bank and the Bowery Savings Bank, and the Albany Savings Bank, and the Emigrant Industrial held any Alabama or South Carolina bonds? A. They held some southern State bonds; I could not tell you which took them, after I came in, of those States; they have held of North Carolina, and I should not be surprised if those of South Carolina.

Q. Have you seen any trace of them in their reports? A. Not of late years; they sold them out some years ago.

Q. You were asked about repudiation being an element of depre-

ciation in those bonds; when did the repudiation of those bonds commence? A. In South Carolina, in July, 1874, notification was made by the Treasurer of the State (Cardozo) that certain bonds would not be recognized.

Q. And in Alabama? A. Until last year there was no formal repudiation of any portion of the debt, but the commissioners refused to recognize the bonds held by this bank of that class.

Q. How long did they refuse to recognize them? A. Going back to 1874, I think.

By Mr. CHAPMAN :

Q. That is, they refused to pay the bonds? A. They refused to recognize the bonds in the new funded claim of 1875; I am speaking of the Alabamas.

By Mr. TRACY :

Q. Are you not aware that early in 1875 the State of Alabama by the new Constitution, fixed the repudiation of a large line of these bonds forever? A. I am not aware of that provision of the Constitution.

By Mr. CHAPMAN :

Q. There is hardly a page in any of these books but has clerical errors that have been corrected? A. Yes, sir; they have corrected them themselves; nearly all of them have dividends that have been corrected in the matter of a few cents.

Q. Those were similar clerical errors in transcribing? A. Yes, sir.

Isaac Smith, recalled on behalf of the State, testified as follows :

By Mr. TRACY :

Q. Mr. Smith, will you produce the reports of January 1, 1876? [Witness produced the same.]

Mr. TRACY — This has not been put in evidence at all I believe; it was before the committee, I understand.

Mr. MCGUIRE — That is the report of the bank of January 1, 1876?

Mr. TRACY — Yes.

The WITNESS — There are two; the original and the corrected report.

Q. Will you produce the original, if you please? A. I have the original in my hand.

Q. Did you examine that when it came into the department? A. Yes, sir.

Q. What was done with it? A. After corrections were made it was given to Mr. Lamb.

Q. And what did he do with it? A. I believe he showed it to the superintendent.

Q. What else was done with it? A. The next step was to file it away.

Q. Wasn't it sent to New York for correction? A. I stated it was sent there for correction; I can give you the memorandum made upon the report that called out the correction?

Q. Read the items upon which you made the corrections? A. The report shows a surplus of \$930.13; they have a statement under "liabilities," "excess of cost over market values \$170,267.81;" there is an asterisk opposite that and this memoranda under it: "This amount does not agree with Schedule B; that schedule shows an excess of \$185,426.25;" that would increase the liabilities to \$15,000, and wipe out the surplus of \$9,000.

Q. Take the next items? A. Below, under "receipts" they have an item, "real estate \$5,029.29; by loans on stocks, \$210,000; they were asked, "please explain more fully these two items;" on the side of "payments" expenses of real estate, taxes, insurance, and repairs, they have "\$2,030.07," and they were asked to show the nature of those expenses; then on the schedules there are other memoranda of matters connected with those; on the first, Schedule A, there is a memorandum, "please give estimated value of mortgaged premises in the cases of mortgages Nos. 67 and 68, and in the third column show where Kings county mortgaged premises are located;" that question was asked because they had not been filled out in what "city, village or town," and in the case of the mortgages mentioned by numbers there were three mortgages appearing on the same property; they stated in answer to that that they had taken assignments of previous mortgages in the case of two of them and then they answered the other question; Schedule B is a list of stock investments; Tennessee, Alabama, North and South Carolina States; Buffalo, Rochester, Yonkers, Morrisania, Wallabout bay and Oswego city. They were requested to give a description of these bonds and date of issue, issued for what purpose and date of redemption, and also show the year of maturity of the city bonds; "please refer to the authority for the market value given;" here is their answer to that—

Q. [Interrupting.] Go through with all the hints that he sent down? A. All these were sent at once; this is the answer they brought up afterward.

Q. You may omit putting that in at present and show what other schedules you sent down to them? A. They were requested to give

the interest on deposits in the banks; they hadn't stated it as the form called for it; Schedule F is a statement of expenses; they have one item, "examiners \$1,600;" they had not stated who the examiners were and the question was asked as to who they were; then there was rather a large item of petty expense, 500 and odd dollars, and they were requested to give the items composing that amount; Schedule E is a statement of accrued interest and suspense account, judgments secured by real estate and the memorandum is, "please furnish a statement of this in detail; this amount of course should include no interest covered"—no, that is an error; that refers to the value of the stocks over cost; "please furnish a statement of this in detail; this amount, of course, should include no interest covered by the market value;" refers to the suspense account; "also please furnish a list of the items comprising this amount; please describe the nature of these debts and state as to the probability of recovering thereon;" those, I believe, are all the instructions in regard to correction.

Q. After these memoranda were made and shown to Mr. Lamb and Mr. Ellis, what was done with them? A. They were not shown to Mr. Ellis then; Mr. Lamb sent them down to New York for correction to the bank.

Q. After that was done what next occurred? A. The president of the bank came up with the answers; the answers were attached to the various papers; about the only important one is the statement of bonds.

Q. Just read that one? A. "Tennessee State bonds (registered), issued 1859, 1866, 1867, 1868, 1873; \$79,000 mature 1892, \$50,000 mature 1898, \$39,000 mature 1914; straight State bonds, purpose not stated in bonds; Alabama State bonds issued 1870, due 1900; straight State bonds, to aid Montgomery and Eufaula Railroad Company; North Carolina State bonds, issued 1866, due 1900, to pay debt contracted before the war; issued 1868, due 1898, funding interest on debt; issued 1857, due 1887, to Atlantic and North Carolina Railroad Company; issued 1856, due 1886, to Atlantic and North Carolina Railroad Company; issued 1855, due 1885, to North Carolina Railroad Company; issued 1867, due 1897, to Western N. C. Railroad Company; issued 1868, due 1898, to Western N. C. Railroad Company; issued 1868, due 1898, to amend charter Chatham Railroad; issued 1867, due 1892, to Wilmington, Charlotte and Rutherford Railroad; issued 1864, due 1864, to State bond, no purpose named: South Carolina State bonds, issued 1869; \$155,000 due 1888, for conversion of State security (registered); the statement was not clear, and was not as called for, and by it we could

not ascertain the market values and the memorandum made upon it is, "please show above opposite the dates of issuing the quantity of stock of those issues respectively, that you held January 1, 1876 ;" Mr. Lamb added, "put amounts where these marks are indicating where."

Q. Who made those? A. The first I made and the second Mr. Lamb made.

Q. What was done when the president came up with these papers; did Mr. Ellis see them? A. Yes, sir; Mr. Ellis handed the papers to me.

Q. When the president was there Mr. Lamb handed them to you? A. Mr. Ellis called me into his private office, and the president (Mr. Conklin), of the bank was there, and Mr. Ellis handed me these papers soon after entering and asked me what I wanted.

Q. And you thereupon made these notes you speak of? A. Yes, sir, this one note; upon this one, because it was not what was wanted.

Q. What was arranged to be done then? A. Then Mr. Conklin said he would make the statement as it was desired, and he did so and sent it up.

Q. Sent up a new statement? A. Yes, sir; "North Carolina State bonds; 13,000, issued 1866, due 1900, to pay debt contracted before the war; 54,500, issued 1868, due 1898, funding interest on debt; 3,000, issued 1857, due 1887, to Atlantic and North Carolina Railroad Company; 1,000, issued 1856, due 1886, to Atlantic and North Carolina Railroad Company; 4,000, issued 1855, due 1885, to North Carolina Railroad Company; 11,000, issued 1867, due 1897, to Western North Carolina Railroad Company; 15,000, issued 1868, due 1898, to Western North Carolina Railroad Company; 11,000, issued 1868, due 1898, to amend charter Chatham railroad; 1,000, issued 1867, due 1892, to Wilmington, Charlotte and Rutherford Railroad; 1,000, issued 1854, due 1884, State bond, no purpose named; all of the above are straight State bonds amounting to \$114,600.

Q. This having arrived at the department, was any thing done to ascertain the values of those stocks? A. Yes, sir; I made a list to correspond with that, and Mr. Lamb sent it to Mr. Reid, with instructions (so I understood from him) to ascertain from the best sources the value of the stocks.

Q. Did Mr. Reid return the values? A. Yes, sir.

Q. You have his report there? A. Yes, sir; this list was sent down and is headed "Procured by George W. Reid from Moran, broker, New York city."

Q. Taking that, and taking the report of the bank, how did it represent it? A. A deficiency of five or six thousand dollars; between five and six.

By Senator COLE;

Q. What time was this? A. I can tell by this, as this is a memorandum I made; the report was first sent down February 14, 1876, and then again February 23, 1876.

Mr. TRACY — We put all those papers in evidence, and they may be marked in the order presented.

The same reads as follows:

Report of the Mechanics and Traders' Savings Institution, an institution for savings, of its condition on the morning of the 1st day of January, 1876, made to the Superintendent of the Banking Department, as required by chapter 371 of the Laws of 1875.

Resources.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed.....	\$616,650 00
2. Stock investments, as shown by Schedule B, hereto annexed, cost.....	1,310,012 25
3. Amount loaned on stocks, as authorized by section 27, chapter 371, Laws of 1875, and shown by Schedule C, heretofore annexed.....	
4. Banking-house and lot at cost.....	79,093 50
5. Other real estate; at cost.....	58,748 06
6. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed.....	78,101 57
7. Cash on hand.....	15,000 00
8. Amount of all other assets, the particular items of which are set forth in Schedule E, hereto annexed.....	79,764, 98
	<hr/>
	\$2,237,370 36
	<hr/>

Liabilities.

1. Amount due depositors.....	\$1,977,572 42
Principal.....	\$1,920,559 30
Interest credited for the six months ending January 1, 1876	57,012 62

2. Other liabilities, viz.: Excess of cost over market values.....	*\$170,267 81
3. Other liabilities, viz.: Loan had on city Rochester Bonds.....	80,000 00
4. Excess of assets over liabilities.....	9,530 13
	<hr/>
	<u>\$2,237,370 36</u>

CASH TRANSACTIONS DURING THE YEAR 1875.

Receipts.

Cash on hand and in bank or trust companies, Jan. 1, 1875, before transactions of the day....	\$428,213 08
From depositors.....	473,643 67
From interest on loans, deposits and investments....	130,861 74
From all other profits, viz.: Premiums, \$5,128.51; rents, \$2,370.16.....	7,498 67
From mortgages paid, called in or foreclosed.....	108,000 00
From redemption of stocks.....	460,925 00
From loans repaid.....	
Other sources, viz.: Real estate, †\$5,020.29; by loans on stocks, †\$210,000.....	215,029 29
	<hr/>
	<u>\$1,824,171 45</u>

Payments.

To depositors, including interest paid to them	\$1,050,623 61
For loans on bonds and mortgages.....	2,000 00
For loans on stocks and other securities.....	130,000 00
For stocks and bonds purchased, par value, \$476,500,	516,415 00
For real estate purchased.....	5,850 00
For interest not included in payments to depositors..	3,615 89
For expenses, as shown by Schedule F, hereto annexed,	20,535 31
Other payments, viz.: Expenses of real estate, taxes, insurance and repairs.....	2,030 07
Cash on hand and in bank Dec. 31, 1875, after the transactions of the day.....	93,101 57
	<hr/>
	<u>\$1,824,171 45</u>

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Alfred T. Conklin, president, and Henry C Fisher, secretary of the Mechanics and Traders' Savings Institution, an institution for savings

†Please explain more fully these two items.

*This amount does not agree with Schedule B; that Schedule shows an excess of \$185, 26.25. (In pencil in original.)

organized under the Laws of the State of New York, located and doing business at No. 283 Bowery, in the city of New York, being duly sworn, each for himself saith, that the foregoing report of resources and liabilities and cash transactions, and the schedules accompanying this report designated, respectively, A, B, C, D, E, F and G, are in all respects, a true statement of the condition of said institution before the transactions of any business on the morning of the 1st day of January, 1876, in respect to each and every of the items and particulars therein specified.

A. T. CONKLIN,
President.
H. C. FISHER,
Secretary.

In pencil : Please complete and return as soon as possible.

HENRY L. LAMB,
Dept. Supt.

Severally subscribed and sworn by both }
deponents, the 1st day of February, }
1876, before me.

GEORGE N. PRATT,
Notary Public, Westchester Co., New York.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } *ss. :*

Charles Roberts, William V. Le Count and Charles J. Kane, being duly sworn, each for himself saith, that he is one of a committee of three regularly appointed by the trustees of the Mechanics and Traders' Savings Institution, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings (as provided and directed by section 45 of chapter 371 of the Laws of 1875), and that the within statement of assets is a true statement of the value of such assets in possession of and owned by said institution on the morning of January 1, 1876, as appeared by the examination made by such committee, in pursuance of section 45 of the law above cited.

CHAS. ROBERTS.
WM. V. LE COUNT.
CHAS. J. KANE.

Subscribed and sworn by each deponent before me this 31st day of }
January, 1876.

GEO. N. PRATT,
Notary Public, Westchester Co

SCHEDULE A. — BONDS AND MORTGAGES.

No.	County where mortgaged premises are located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.	Date of last payment of interest.
4....	New York.....	.....	\$5,000 00	\$10,000 00	.....	Dec. 1, 1875
5....	Kings.....	.....	1,250 00	2,500 00	.....	Dec. 1, 1875
9....	Kings.....	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
10....	Kings.....	.....	1,300 00	2,600 00	.....	Dec. 1, 1875
15....	New York.....	.....	4,500 00	11,250 00	.....	Dec. 1, 1875
19....	Kings.....	.....	1,200 00	2,500 00	.....	Dec. 1, 1875
23....	Kings.....	.....	800 00	3,000 00	.....	Dec. 1, 1875
24....	Kings.....	.....	600 00	7,500 00	.....	Dec. 1, 1875
26....	New York.....	.....	1,600 00	5,000 00	.....	Dec. 1, 1875
46....	Kings.....	.....	2,000 00	5,000 00	.....	Dec. 1, 1875
47....	Kings.....	.....	5,000 00	20,000 00	.....	Dec. 1, 1875
50....	Kings.....	.....	500 00	2,500 00	.....	June 1, 1875
52....	Kings.....	.....	1,000 00	2,500 00	.....	Dec. 1, 1875
53....	New York.....	.....	12,000 00	25,000 00	.....	Dec. 1, 1875
55....	New York.....	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
56....	New York.....	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
57....	New York.....	.....	2,500 00	7,500 00	.....	Dec. 1, 1875
58....	New York.....	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
59....	New York.....	.....	4,000 00	15,000 00	.....	Dec. 1, 1875
60....	New York.....	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
63....	New York.....	.....	7,000 00	14,000 00	.....	Dec. 1, 1875

SCHEDULE A — (Continued).

No.	County where mortgaged premises are located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.	Date of last payment of interest.
64...	New York	.....	\$10,000 00	\$20,000 00	.....	Dec. 1, 1875
65...	New York	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
67*	Kings	.....	1,500 00	}	.....	Dec. 1, 1875
68*	Kings	.....	4,500 00		.....	Dec. 1, 1875
68...	Kings	.....	1,500 00		.....	Dec. 1, 1875
72...	New York	.....	4,000 00	10,000 00	.....	Dec. 1, 1875
73...	New York	.....	15,000 00	37,500 00	.....	Dec. 1, 1875
76...	New York	.....	14,000 00	37,500 00	.....	Dec. 1, 1875
77...	New York	.....	15,000 00	37,500 00	.....	Dec. 1, 1875
79...	New York	.....	14,000 00	37,500 00	.....	Dec. 1, 1875
81...	New York	.....	7,000 00	14,000 00	.....	Dec. 1, 1875
83...	Kings	.....	5,000 00	14,000 00	.....	Dec. 1, 1875
84...	New York	.....	10,000 00	25,000 00	.....	Dec. 1, 1875
85...	Kings	.....	3,000 00	7,500 00	.....	Dec. 1, 1875
88...	New York	.....	10,000 00	35,000 00	.....	Dec. 1, 1875
89...	Kings	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
90...	Kings	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
91...	Kings	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
92...	Kings	.....	4,500 00	30,000 00	.....	Dec. 1, 1875
93...	Kings	.....	3,300 00	6,600 00	.....	Dec. 1, 1875
94...	Kings	.....	3,300 00	6,600 00	.....	Dec. 1, 1875
99...	Kings	.....	2,500 00	7,500 00	.....	Dec. 1, 1875
102...	Kings	.....	500 00	1,000 00	.....	Dec. 1, 1875
103...	Kings	.....	8,000 00	16,500 00	.....	Dec. 1, 1875
104...	New York	.....	20,00000	50,000 00	.....	Dec 1, 1875

105....	New York	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
108....	New York	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
110....	New York	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
111....	New York	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
112....	New York	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
113....	Kings	.....	15,000 00	37,500 00	.....	June 1, 1875
114....	New York	.....	10,000 00	20,000 00	.....	Dec. 1, 1875
115....	New York	.....	7,000 00	15,000 00	.....	Dec. 1, 1875
116....	Kings	.....	6,000 00	15,000 00	.....	Dec. 1, 1875
117....	New York	.....	12,000 00	25,000 00	.....	Dec. 1, 1875
118....	New York	.....	8,000 00	16,000 00	.....	Dec. 1, 1875
119....	New York	.....	9,000 00	18,000 00	.....	Dec. 1, 1875
120....	New York	.....	5,000 00	10,000 00	.....	Dec. 1, 1875
121....	Kings	.....	16,000 00	40,000 00	.....	June 1, 1875
122....	New York	.....	5,000 00	15,000 00	.....	Dec. 1, 1875
123....	Kings	.....	4,500 00	10,000 00	.....	.....
124....	Kings	.....	1,000 00	40,000 00	.....	June 1, 1875
125....	New York	.....	5,000 00	10,000 00	.....	June 1, 1875
126....	Kings	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
127....	Kings	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
128....	Kings	.....	12,000 00	35,000 00	.....	June 1, 1875
129....	Kings	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
130....	Kings	.....	3,500 00	7,000 00	.....	Dec. 1, 1875
131....	New York	.....	3,000 00	7,500 00	.....	Dec. 1, 1875
132....	New York	.....	7,000 00	14,000 00	.....	June 1, 1875
133....	New York	.....	7,000 00	14,000 00	.....	Dec. 1, 1875
134....	New York	.....	7,000 00	14,000 00	.....	Dec. 1, 1875
135....	New York	.....	3,000 00	6,000 00	.....	Dec. 1, 1875

SCHEDULE A — (Continued.)

No.	County where mortgaged premises are located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.	Date of last payment of interest.
138....	Kings.....	.....	\$10,000 00	\$20,000 00	.....	Dec. 1, 1875
139....	New York.....	.....	10,000 00	20,000 00	.....	Dec. 1, 1875
140....	New York.....	.....	7,000 00	14,000 00	.....	Dec. 1, 1875
141....	New York.....	.....	7,000 00	14,000 00	.....	Dec. 1, 1875
142....	New York.....	.....	8,500 00	17,000 00	.....	Dec. 1, 1875
143....	New York.....	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
144....	New York.....	.....	6,000 00	12,000 00	.....	Dec. 1, 1875
145....	Kings.....	.....	3,200 00	6,400 00	.....	Dec. 1, 1875
146....	New York.....	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
147....	New York.....	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
148....	New York.....	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
149....	New York.....	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
151....	Kings.....	.....	1,800 00	3,600 00	.....	Dec. 1, 1875
152....	New York.....	.....	9,000 00	18,000 00	.....	Dec. 1, 1875
154....	Kings.....	.....	4,500 00	9,000 00	.....	Dec. 1, 1875
155....	New York.....	.....	5,000 00	14,000 00	.....	Dec. 1, 1875
156....	New York.....	.....	10,000 00	25,500 00	.....	Dec. 1, 1875
157....	New York.....	.....	10,000 00	25,500 00	.....	Dec. 1, 1875
158....	New York.....	.....	10,000 00	25,500 00	.....	Dec. 1, 1875
159....	New York.....	.....	10,000 00	22,500 00	.....	Dec. 1, 1875
160....	New York.....	.....	10,000 00	22,500 00	.....	Dec. 1, 1875
161....	Kings.....	.....	2,000 00	4,000 00	.....	Dec. 1, 1875
162....	Kings.....	.....	1,500 00	3,500 00	.....	Dec. 1, 1875
163....	New York.....	.....	5,000 00	12,500 00	.....	Dec. 1, 1875

164...	Kings.....	.....	6,000 00	14,000 00	.....	Dec. 1, 1875
166...	New York.....	.....	11,000 00	25,000 00	.....	Dec. 1, 1875
168...	Kings.....	.....	2,250 00	6,000 00	.....	Dec. 1, 1875
169...	Kings.....	.....	2,250 00	6,000 00	.....	Dec. 1, 1875
170...	New York.....	.....	8,000 00	24,000 00	.....	Dec. 1, 1875
171...	Kings.....	.....	5,000 00	11,000 00	.....	June 1, 1875
172...	New York.....	.....	3,800 00	9,000 00	.....	Dec. 1, 1875
173...	New York.....	.....	2,000 00	4,000 00	.....	June 1, 1875
174...	New York.....	.....			
			\$616,650 00			

Please give estimated value of mortgaged premises in the cases of mortgage No. 67 and 68, and in the third column show where Kings county mortgaged premises are located? All loans on Kings county are in the city of Brooklyn. We have no loans on Kings county out of Brooklyn limits.

*In making loan we took assignment of previous mortgage.

SCHEDULE B. STOCK INVESTMENTS.

NAME OF STOCK.	Rate of Interest.	Actual cost.	Par value.	Estimated market value.	Date of last payment of interest.
Tennessee State*	6 pr. ct.	\$143,642 25	\$168,000 00	\$75,600 00	July 1, 1874
Alabama State*	8 pr. ct.	157,700 00	166,000 00	74,700 00	July 1, 1873
North Carolina State*	6 pr. ct.	74,550 00	114,600 00	35,526 00	Oct. 1, 1868
South Carolina State*	6 pr. ct.	90,050 00	155,000 00	51,150 00	July 1, 1872
Buffalo city	7 pr. ct.	109,425 00	110,000 00	116,600 00	July 1, 1875
Rochester city	7 pr. ct.	457,100 00	448,000 00	472 640 00	July —, 1875 Aug. —, 1875 Nov. —, 1875
Yonkers	7 pr. ct.	16,730 00	17,000 00	17,510 00	Aug. 1, 1875
Morrisania, N. Y.	7 pr. ct.	3,000 00	3,000 00	3,300 00	Mar. 9, 1875
Wallabout, (Brooklyn)	7 pr. ct.	9,975 00	10,000 00	10,800 00	July 1, 1875
Oswego city	7 pr. ct.	247,840 00	256,500 00	266,760 00	July 1, 1875 Oct. 1, 1875
		\$1,310,012 25	\$1,448,100 00	\$1,124,586 00	

* Please give a description of these bonds, date of issue, issued for what purpose, and date of redemption. Also show the year of maturity of the city bonds.

Please refer to the authority for the market value given.

RECAPITULATION OF STOCK INVESTMENTS.

(Enumerated on Schedule B.)

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stocks or bonds of villages. 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of Interest.	Actual cost.	Par value.	Estimated market value.
United States stocks or interest-bearing notes or obligations.....
New York State stocks.....
Stocks or bonds of other States.....	\$465,942 25	\$603,600 00	\$236,976 00
Stocks or bonds of cities in this State.....	844,070 00	844,500 00	887,610 00
Stocks or bonds of counties in this State.....
Stocks or bonds of towns in this State.....
Stocks or bonds of villages in this State.....
Other stocks or bonds.....
		\$1,310,012 25	\$1,448,100 00	\$1,124,586 00

SCHEDULE D.—CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Amount on deposit.	At what rate of interest.
Catham National Bank.....	\$7,771 99	3 per cent.
Oriental Bank.....	62,701 44	3 per cent.
Manufacturers and Merchants' Bank....	7,628 14	4 per cent.
	<hr/> \$78,101 57	

SCHEDULE E—No. 2.

ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED.

Excess of market value of stock investments over cost,	
Accrued interest on bonds and mortgages.....	\$3,596 20
Accrued interest on stock investments, such interest not being in arrears six months, nor included in the mar- ket value of stocks as shown by Schedule B.	*28,750 73
Accrued interest on loans and deposits.....	
Interest due on bonds and mortgages not in arrears six months.....	2,936 50
Interest due on stock investments not in arrears six months.	
Interest due on loans and deposits not in arrears six months	
Suspense account	†39,127 07
Judgment secured by real estate.....	5,354 48
	<hr/> \$79,764 98

STATEMENT IN DETAIL OF SCHEDULE E.

Bonds and mortgages \$616,650, one month,	\$3,596 20
Bonds and mortgages Nos. 19, 47, 113, 121, 124, 125, 128, 132, 156, 161, 162, 171, 174	2,936 50
	<hr/> \$6,532 70
Rochester city's, May and November, \$6,000 two months	\$70 00
Rochester city's, January and July, \$392,000 six months.....	13,720 00
Rochester city's, February and August, \$50,000 five months.....	1,458 33

*Please furnish the statement of this in detail. This amount, of course, should include no interest covered by the market value.

† Also, please furnish a list of the items composing this amount. Please describe the ture of these debts, and state as to the probability of recovery thereon.

Oswego city's, January and July, \$237,000 six months,	\$8,295 00
Oswego city's, April and October, \$19,500 three months,	341,25
Buffalo city's, January and July, \$110,000 six months,	3,850 00
Yonkers, February and August, \$17,000 five months....	495 82
Morrisania, March 9, 1875 \$3,000, nine months and twenty-two days	170 33
Wallabout, Brooklyn, January and July, \$10,000 six months	350 00
	<hr/>
	\$35,283 43
	<hr/>

Suspense Account.

Represents a balance due the bank on a former loan. Assets of the debtor are now in process of collection by which this balance will be wholly paid.

Judgment Secured by Real Estate.

This judgment is for a deficiency arising on a foreclosure by the bank. It is secured by an attachment now in force on real estate, for which present owner paid \$30,000. Our sale has been postponed from time to time by devices and requests of judgment-debtor. It now stands advertised by sheriff for March 1, 1876. The proceeds of this sale will pay the judgment.

SCHEDULE F.

PAYMENTS ON ACCOUNT OF EXPENSES DURING 1875.

Salaries, viz.:

President	\$3,000 00	
Secretary	3,000 00	
Book-keeper	2,000 00	
Teller	1,649 94	
Clerk	114 00	
Janitor	1,150 00	
Watchman, "night," \$1,200 ; "Sunday," \$500	1,700 00	
Examiners, Chas. Roberts, Wm. V. LeCount, \$1,600 00		
Substitutes, vacations of employees	258 71	
	<hr/>	\$14,472 65

Rent, \$— ; repairs, \$—.

Furniture and fixtures	138 03
Printing, advertising, stationery and blank books	1,251 15
Fuel and lights	359 12
Taxes, State, county, town, village and city	882 00

Taxes, United States.....	\$2,408 79
Other expenses viz.: petty expenses.....	501 05
Bank Department draft.....	71 77
Attorneys' bills.....	335 75
Insurance on 283 Bowery.....	115 00
	<hr/>
	\$20,535 31
	<hr/>

Petty cash items are made up of such things as lunches for our board and committee meetings, scrubbing and cleaning bank, postage stamps, newspapers, car fares, etc., etc.

Nothing is included in petty cash but such minor matters as above indicated. At end of each month a check is drawn, by which the month's total becomes charged in our general expense account.

SCHEDULE G—STATISTICAL INFORMATION.

1. Number of open accounts January 1, 1876.....	4,417
2. Number of accounts opened during the year 1875 }	467
3. Number of ac'ts reopened during the year 1875 }	
4. Number of accounts closed during the year 1875..	997
5. Amount deposited, including interest credited, during the year 1875.....	\$600,531 49
6. Amount of deposits withdrawn during the same period.....	1,050,623 61
7. Amount of interest credited to depositors for the year 1875.....	126,887 82
8. Amount of each semi-annual credit of interest for the year 1875, and when credited:	
June 30.....	69,875 20
December 31.....	57,012 62
Credited at other periods during the year.....	None.
Paid, but not credited during the year.....	None.
9. Amount of extra dividends, if any, and when credited.....	None.
10. Amount of the largest single deposit, exclusive of interest.....	7,700 00
11. Average amount of each deposit January 1, 1876...	447 00
12. Market value of real estate, viz.:	
Banking-house and lot.....	100, 000 00
Other real estate.....	53,000 00
13. Rate per cent of dividends or interest to deposi tors during the past year, six per cent.	

Tennessee State bonds (registered), issued 1859, 1866, 1867, 1868, 1873 ; \$79,000 mature 1892, 50,000 mature 1898, \$39,000 mature 1914. Straight State bonds, purpose not stated in bonds.

Alabama State bonds, issued 1870 ; due 1900. Straight State bonds, to aid Montgomery and Eufaula Railroad Company.

South Carolina State bonds, issued 1869 ; \$155,000 due 1888. For conversion of State securities (registered).

PROCURED BY GEO. W. REID FROM MORAN, BROKER, NEW YORK CITY.

Bonds of the State of North Carolina.

- Issued 1866, due 1900. To pay debt contracted before the war.
- Issued 1868, due 1898. Funding interest on debt.
- Issued 1857, due 1887. To Atlantic and North Carolina Railroad Company.
- Issued 1856, due 1886. To Atlantic and North Carolina Railroad Company.
- Issued 1855, due 1885. To North Carolina Railroad Company.
- Issued 1867, due 1897. To Western North Carolina Railroad Co.
- Issued 1868, due 1898. To Western North Carolina Railroad Co.
- Issued 1868, due 1898. To amend charter Chatham Railroad.
- Issued 1867, due 1892. To Wilmington, Charlotte and Rutherford Railroad.
- Issued 1854, due 1884. To State bond, no purpose named.

North Carolina State Bonds.

- \$13,100, issued 1866, due 1900. To pay debt contracted before war.
 - 54,500, issued 1868, due 1898. Funding interest on debt.
 - 3,000, issued 1857, due 1887. To Atlantic and North Carolina Railroad Company.
 - 1,000, issued 1856, due 1886. To Atlantic and North Carolina Railroad Company.
 - 4,000, issued 1855, due 1885. To North Carolina Railroad Co.
 - 11,000, issued 1867, due 1897. To Western North Carolina Railroad Company.
 - 15,000, issued 1868, due 1898. To Western North Carolina Railroad Company.
 - 11,000, issued 1868, due 1898. To amend charter Chatham Railroad.
 - 1,000, issued 1867, due 1892. To Wilmington, Charlotte and Rutherford Railroad.
 - 1,000, issued 1854, due 1884. State bond, no purpose named.
- All of the above are straight State bonds.

EXPLANATION OF REAL ESTATE ITEM.

Mortgaged property foreclosed and bought in by bank:	
Gave our check (see payments) for.....	\$5,850 00
Received referee's check for.....	5,029 29
	<hr/>
Balance.....	\$820 71
	<hr/> <hr/>

Represented costs and expenses, for which bank holds a deficiency judgment.

EXPLANATION OF "RECEIVED BY LOANS ON STOCKS, ETC."

In December bank borrowed on collaterals.....	\$210,000 00
Repaid a portion as shown under "payments".....	130,000 00
	<hr/>
Balance owing by us.....	\$80,000 00
	<hr/> <hr/>

Is shown under "other liabilities."

Cross-examination by Mr. MCGUIRE:

Q. [Presenting paper.] Mr. Smith, is that the corrected statement made by the bank? A. Yes, sir; that is corrected by the bank.

Mr. MCGUIRE—Now, we will offer the corrected statement of the bank. The same reads as follows:

Report of the Mechanics and Traders' Savings Institution, an institution for savings, of its condition on the morning of the 1st day of January, 1876, made to the Superintendent of the Banking Department, as required by chapter 371 of the Laws of 1875.

RESOURCES.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed.....	\$616,650 00
2. Stock investments, as shown by Schedule B, hereto annexed, cost.....	1,310,012 25
3. Amount loaned on stocks, as authorized by section 27, chap. 371, Laws of 1875, as shown by Schedule C, hereto annexed	
4. Banking-house and lot, at cost	79,093 50
5. Other real estate, at cost.....	58,748 06
7. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed.....	78,101 57
8. Cash on hand.....	15,000 00

9. Amount of all other assets the particular items of which are set forth in Schedule E, hereto an- nexed.....	\$79,764 98
	<hr/>
	\$2,237,370 36
	<hr/>

LIABILITIES.

1. Amount due depositors.....	\$1,977,572 42
Principal.....	\$1,920,559 80
Interest credited for the six months ending January 1, 1876	57,012 62
2. Other liabilities, viz.: Excess of cost over Market values, etc.....	185,426 25
3. Other liabilities, viz.: Loan on Rochester city bonds.....	80,000 00
	<hr/>
	\$2,242,998 67
4. Excess of liabilities.....	5,628 31
	<hr/>
	\$2,237,370 36
	<hr/>

CASH TRANSACTIONS DURING THE YEAR 1875.

Receipts.

Cash on hand and in bank or trust companies Janu- ary 1, 1875, before transactions of that day.....	\$428,213 08
From depositors.....	473,643 67
From interest on loans, deposits and investments....	130,861 74
From all other profits, viz.: Premiums, \$5,128.51; rents, \$2,370.16.....	7,498 67
From mortgages paid, called in, or foreclosed.....	108,000 00
From redemption of stocks.....	460,925 00
From loans repaid.....	
From other sources, viz.: Real estate, \$5,029.29; by loans on stocks, \$210,000.....	215,029 29
	<hr/>
	\$1,824,711 45
	<hr/>

This is in pencil: Excess of market value of our real estate over its cost is \$15,158.44. This, if allowed us, would *reduce* our liabilities by just *that amount*. It is not allowed us and so does not appear.

Payments.

To depositors, including interest paid to them.....	\$1,050,623 61
For loans on bonds and mortgages.....	2,000 00

For loans on stocks and other securities.....	\$130,000 00
For stocks and bonds purchased, par value, \$476,500,	516,415 00
For real estate purchased.....	5,850 00
For interest, not included in payments to depositors,	3,615 89
For expenses, as shown by Schedule F, hereto annexed,	20,535 31
Other payments, viz.: Expenses of real estate, taxes, insurance, repairs.	2,030 07
Cash on hand and in bank December 31, 1875, after the transactions of the day	93,101 57
	<hr/> <hr/>
	\$1,824,171 45

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Alfred T. Conklin, president, and Henry C. Fisher, secretary of the Mechanics and Traders' Savings Institution, an institution for savings, organized under the laws of the State of New York, located and doing business at No. 283 Bowery, in the city of New York, being duly sworn, each for himself saith that the foregoing report of resources and liabilities and cash transactions, and the schedules accompanying this report, designated respectively, are in all respects a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of January, 1876, in respect to each and every of the items and particulars therein specified.

A. T. CONKLIN,
President.

H. C. FISHER,
Secretary.

Severally subscribed and sworn by }
both deponents, the 1st day of }
February, 1876, before me.

GEO. N. PRATT,
Notary Public, Westchester Co.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Charles Roberts, William V. Le Count and Charles I. Kane, being duly sworn, each for himself, saith that he is one of a committee of three, regularly appointed by the trustees of the Mechanics and Traders' Savings Institution, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings (as provided and directed by section 45 of chapter 371 of

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CHAS. ROBERTS.
W. V. LE COUNT.
CHAS. I. KANE.

Subscribed and sworn by each }
deponent, before me, this }
31st day of January, 1876. }

GEO. N. PRATT,

Notary Public, Westchester Co.

Q. Whose handwriting is the pencil mark in the corrected report ?

A. I suppose that is by some one in the bank.

Q. What time elapsed after you sent this report back to the bank, before this corrected report came back to the department ? A. I can't tell you as to that ; a few days, I think.

Q. You say that this pencil writing upon this report is in the handwriting of some officer of the bank ? A. Yes, sir ; I suppose so ; it is not of any one in the department.

Q. Was it upon the corrected report that it was returned to the department ? A. Yes, sir.

Q. You see, "excess of market-value of real estate over its cost \$151,584.46, if allowed us would reduce our liabilities by just that amount ; it is not allowed us and so does not appear."

Q. Now, by making the corrections when they asked the bank to make them, you see its liabilities are in excess of its resources \$5,628.31 ? A. Yes, sir.

Q. And this was the report accepted by the department ? A. Yes, sir.

Q. And upon which the superintendent made his report to the Legislature ? A. Yes, sir.

Q. Upon this corrected report ? A. Yes, sir.

Q. You have stated that their report did not agree with schedule B, Mr. Smith ? A. Yes, sir.

Q. Will you refer to the particular item in which it did not agree ? A. The market value was less than the cost.

Q. And the difference between the cost of the stock and its then market value, was put in as a liability against the bank ? A. Yes, sir.

Q. And that was the error that you wished the bank to correct ?

A. No ; it was not an error to put it in as a liability.

Q. You see there was an error in the footing—that you put it at \$170,000, whereas by making the "proper subtraction it would be \$185,000? A. Yes, sir.

Q. That is what you wanted the bank to correct? A. Yes, sir.

Q. And the bank reported and the department regarded, if the value of the stocks was less than their actual cost, that that was a liability against the bank? A. The object was to have—

Q. [Question repeated.] A. I can't say it was regarded as a liability; it was only an offset, and the object of it was to include in the total assets of the bank, or in its surplus, if it is in these' stocks, at their market value, and the effect of making the entry was in that way.

Q. I was inquiring what constituted the liabilities of this bank; will you state what they reported constituted its liabilities according to there report—whether the difference of the cost and the market value was one of the liabilities?

Mr. TRACY—The witness says it was an offset against the gross charge.

A. Yes, sir.

Q. That is one of the items making up the liability of the bank as one of its resources? A. Yes, sir; in the resources cited they put in the cost.

Q. And as an offset they put in the difference between the cost and the market value as a liability? A. Yes, sir.

Q. So if the stocks had appreciated the next day that liability would not have existed? A. It would depend upon what the increase would be.

Q. If it appreciated enough to come up to the cost then the liability would not have existed? A. No, sir.

Q. And if they had appreciated in part, then it would have wiped out a part of the liability? A. Yes, sir.

Q. So that liability depends really upon the market value of the stocks? A. Yes, sir.

Q. What is the difference between the market value of the stocks as reported by Mr. Reid and as returned by the bank to the department? A. They reported the North Carolinas at 35—the aggregate amount; there was only one item where there was a material change made.

Q. What did the bank report to the department as the value of the North Carolina bonds? A. Three hundred and fifty-five dollars and twenty-six cents.

Q. That would be on what amount of bonds? A. One hundred and fourteen thousand six hundred dollars par value.

Q. What would be the percentage ? A. Thirty-one.

Q. The item reported to the department put these bonds at 31 ? A. Yes, sir.

Q. What did Reid, when he made the answer and request of the department report ? A. Mr. Reid gave the rates, and I made a table or statement of the bonds.

Q. What is the difference ? A. The amount, taking Mr. Reid's prices for the same stocks, is \$12,970.

By Senator COLE :

Q. What is the rate ? A. Eleven and one-third per cent on the average.

By Mr. McGUIRE :

Q. This bank you knew at this time had had some trouble ? A. Yes, sir ; for some time.

Q. You recollect the time that Bellamy and Gregory & Co., were having trouble with this bank ? A. Yes, sir.

Q. And the department was watching this bank pretty close, wasn't it ? A. I suppose it was.

Q. Don't you know the fact ? A. Well, I can't answer for the department, I can only answer for myself.

Q. You constitute a portion of the department ? A. Yes, sir.

Q. When this report came in, in January, 1876, knowing that the bank had had trouble, you scrutinized that report with care, didn't you ? A. That is my reason, sir.

Q. And there was no objection made to the utmost scrutiny by Mr. Lamb and Mr. Ellis, was there ? A. No, sir.

Q. After this report came in, was the bank still the subject of watchfulness on the part of the department ? A. Yes, sir, I believe it was ; examination was made soon after that.

Q. Subsequent to this the department ordered Mr. Reid to make another thorough examination of the books of this bank, didn't it ? A. Yes, sir.

Q. What time was that ? A. The early part of March.

Q. Have you the date of Mr. Reid's commission ? A. No, sir.

Q. Have you got Mr. Reid's report here ? A. Yes, sir, I think it is here.

Q. Mr. Lamb has it ? A. Yes, sir.

Q. What time did that report come to the department ? A. I don't remember the date, sir.

Q. After the examination of Mr. Reid's report, which he was ordered to make in March, what did the department do then, if any thing ? A. Nothing that I know of, sir.

Q. They did soon after ? A. Not soon after.

Q. I am speaking comparatively ? A. I don't exactly know then how to answer that question.

Q. Was the bank reported to the Attorney-General by the department after this examination of Reid's ? A. Yes, sir.

Q. You say that you don't know when Mr. Reid's report came to the department ? A. Not exactly.

Q. Can you tell when the superintendent reported it to the Attorney-General for action ? A. I believe it was the first day of June.

Q. Was there another examination made between March and June ? A. Not that I know of, sir.

Q. Do you know of Mr. Ellis, between the time of the coming in of this report and the time he passed it over to the Attorney-General, going to New York and examining the bank and its officers, and its assets ? A. No, sir.

Q. Do you know of any of the officers coming from New York to see the superintendent after this time ? A. No, sir.

Q. Can you state whether there was any correspondence between Mr. Ellis and the bank after the report of Mr. Reid coming in ? A. I am not sure of that ; I think there was some correspondence.

Q. I understood you, the other day, that you hadn't had a scrutiny of the office ? A. No, sir.

Q. So you did not keep any track of that ? A. No, sir.

Q. Now, I was going to ask you, Mr. Smith, whether it is an unusual thing in the department that when these reports came in the department returns them to the bank for correction ? A. No sir, it is not an unusual thing.

Q. Is it a usual thing ? A. Since the law of 1875 it is a usual thing.

Q. Prior to that time the reports came in somewhat imperfect, and you returned them ? A. Yes, sir ; but not to so large an extent as since.

Q. When you returned this report of January, 1876, to the bank for correction, the bank immediately responded to that demand of the department, didn't it ? A. Yes, sir.

Q. And made their corrections that the department required ? A. Yes, sir.

Q. I see one other thing in these schedules ; on your memorandum, in the item of expenses, you have a pencil mark there to state what the expenses were, or the entry of them ; did the bank comply with that request ? A. I believe they did ; I will see [looking at paper].

Q. Who put in the words " taxes, repairs and insurance," right above your pencil mark in the report ; were the words " taxes, repairs

and insurance " in the original report, or were they put in when the report was sent back for correction? A. It was stated the same in both.

Q. What did you want to know any more about it, then, when it was stated that it was real estate, and when it was stated that that consisted of " taxes, repairs and insurance ? " A. They made a change in the item; the first statement in the original report is " expenses of real estate, taxes, insurance and repairs, \$1,094.33," and then they corrected it, making it \$2,030.07.

Q. I didn't know but that you required an itemized bill of taxes and repairs; was that the purpose of putting that memorandum there? A. No, sir; they made some other statement, I think; I can't find it now; I thought they made all the replies which were wanted.

By Mr. CHAPMAN :

Q. Mr. Smith, let me ask you a question or two to see whether I have got the thing correctly in my mind; as I understand it the first report which was received from the bank was received by the department along sometime the forepart of February? A. Yes, sir.

Q. Then you take the report and the schedules and minute in pencil upon them such additional inquiries as you wish to make at the department? A. Yes, sir.

Q. And send that down to the bank? A. Yes, sir.

Q. After that, I understand the president of the bank came up and had a conversation with Mr. Ellis in regard to the matter? A. I suppose he did.

Q. Subsequent to that conversation the bank sent in its second report and these schedules changed in the particulars you inquired about? A. I don't know as there were any changes in the schedules, but on the report there were changes.

Q. Giving you additional information that you asked for? A. Yes, sir.

Q. That came to the department February 25, 1876? A. I should think that was so; of course, I don't remember dates; it is indorsed so.

Q. After that, I understand you that Mr. Lamb sent down to Mr. Reid a list of the bonds and stocks you required him to find out the value of and report to the department? A. Yes, sir.

Q. And Mr. Reid so did? A. Yes, sir; I suppose he did.

Q. You received from Mr. Reid this report along sometime in March? A. I don't know whether it was as late as that or not.

Q. Is there not a filing here to indicate when he received it from Mr. Reid? A. I don't know.

Q. It must have been along in March, must it not, before you received this at the department from Mr. Reid? A. Yes, sir; I think so.

Q. And after the department received this from Mr. Reid, the department then sent a commission to Mr. Reid to make an examination of the bank? A. Yes, sir.

Q. That examination was made and returned to the department? A. I believe it was.

Q. Along some time in May? A. I don't know as to time; I can't tell when.

Q. After that report was received from Reid, by the first of June, Mr. Ellis reported the bank to the Attorney-General for closing up? A. Yes, sir.

Q. You have to send back as I understand it, nearly all of the reports which are received from the banks for correction, either for clerical errors or for additional information? A. I should estimate about one-half.

Q. So there is nothing particularly strange or unusual in asking this information or calling upon the bank to answer such inquiries as you see fit to make? A. No, sir.

Q. This was done by the department in all cases, with the idea of keeping close watch of these institutions, wasn't it? A. Yes, sir.

By Mr. TRACY:

Q. When you got the corrected report you found the bank in deficit? A. Yes, sir.

By Mr. CHAPMAN:

Q. And put it in the hands of the Attorney-General?

Mr. TRACY — We will see about that, whether he put it in the hands of the Attorney-General. May I be allowed to say that the Sergeant-at-Arms is often absent serving subpoenas. It sometimes occurs that a subpoena is necessary to be served in this vicinity when he is absent. No private person has authority to so do, and I submit witnesses are not always willing to come when requested to come, and many refuse to come, and if it was in the prerogative of the Senate to designate some person to serve subpoenas, it would be very agreeable to us at least.

The PRESIDENT — The Senate can by order direct the service of subpoenas.

By Mr. CHAPMAN:

Q. This item in regard to examiners, was not in regard to examiners of the Bank Department, was it? A. No, sir.

By Mr. TRACY :

Q. Did you learn, by the statement they made, who the examiners were? A. Yes, sir.

Q. Who were they? A. There were two trustees of the bank; I can give the names if you wish.

Q. Just give the names, if you please? A. Charles Roberts and—

Q. How much did they get for their examination? A. One thousand six hundred dollars.

By Mr. CHAPMAN :

Q. They were, as you understood it, to examine the securities of the bank? A. Yes, sir.

Q. There was some provision of the law requiring or providing they were not trustees, to make an examination? A. Yes, sir; I believe there was such a provision.

Mr. TRACY— If the President will allow us to use one of the door keepers for serving subpoenas, and it is regular, we would like it.

Senator HARRIS— While the counsel are waiting for a witness, I will call from the table a resolution fixing the pay of the janitor. The resolution, the Senate may remember, appointing him did not fix his wages at all, and I offered the resolution some days since, but the Senate was not full, and it was laid upon the table.

The PRESIDENT— The resolution will be read.

The Clerk then read the resolution.

Senator STARBUCK— What is that compensation?

Senator HARRIS— I think it is three dollars a day.

The Clerk— Five dollars.

The resolution was then adopted.

Senator VEDDER— I offer the following resolution :

Resolved, That the doorkeeper of the Senate be authorized and directed to serve subpoenas in the absence of the Sergeant-at-Arms, upon request of counsel for the State or of the respondent.

Senator HARRIS— That is, not to go out of town; it is merely limited to this village?

Senator VEDDER— I don't know how that may be.

The PRESIDENT— The Chair will state that he understands from the State's counsel that it is necessary, in the absence of the Sergeant-at-Arms, to have the doorkeeper serve subpoenas in such absence.

The resolution was then adopted.

Henry L Lamb, being duly recalled on behalf of the State, testified as follows :

By Mr. TRACY :

Q. Will you produce the examination of March 7, 1876 ? [Witness produced the same.]

Q. State when it was filed in the Department? A. March 16, 1876.

Q. Will you read the commission ? A. " Bank Department, State of New York ; pursuant to provisions of chapter 371 of the Laws of 1875, I do hereby appoint Geo. W. Reid to examine into the condition, working and affairs generally of the Mechanics and Traders' Savings Institution, New York city, and report thereon to me in detail, as soon as practicable ;" signed " D. C. Ellis, Superintendent."

Q. Will you state what is the result of the report as to assets and income ? A. [As follows] :

" Hon. D. C. ELLIS, *Superintendent Bank Department* :

" SIR — The undersigned, appointed to examine into the condition, working, etc., of the Mechanics and Traders' Savings Bank, reports :

" From the accompanying papers it will be seen that there is a deficiency of assets of \$91,898.39, counting their real estate at cost, and a deficiency of income of \$30,548.18.

" The rate of interest paid to depositors averages 5.94 per cent on the last three payments of six per cent dividends on all sums ; the largest in the State by at least 30 per cent. This *may* arise from there being a larger amount due depositors than appears from the general ledgers. There has been no abstract taken from the dealers' ledgers for some years, to test the accuracy of the general ledger.

" Respectfully submitted.

" GEO. W. REID."

Examined March 7, 1876, and subsequent days.

Q. The note of Mr. Reid, which you have now read precedes the formal examination, does it ; it is attached to and precedes the tables which follows ? A. Yes, sir.

Mr. TRACY — Let that be marked 53, reading as follows :

ASSETS AND LIABILITIES of the *Mechanics and Traders' Savings Bank* upon the 7th day of March, 1876, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.

	Rate of interest	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.	7	.....	....	.....	\$436,650 00
Tennessee State bonds, old.	6	\$129,000 00	43½	\$56,115 00	
Tennessee State bonds, new.	6	39,000 00	41	15,990 00	* 3,600 00
Alabama State bonds, Montgomery and Eufa. R. R.	8	166,000 00	32	53,120 00	* 21,600 00
North Carolina State bonds, various.	6	114,600 00	11½	12,892 50	* 22,700 00
South Carolina State bonds.	6	155,000 00	31	48,050 00	* 3,100 00
Brooklyn city bonds.	7	10,000 00	108	10,800 00	
Rochester city bonds, various.	7	248,000 00	108	267,840 00	
Buffalo city bonds	7	70,000 00	106	74,200 00	
Owego city bonds.	7	256,000 00	102	261,630 00	
Yonkers city bonds.	7	9,000 00	105	9,450 00	
Morrisania town bonds.	7	3,000 00	110	3,300 00	
Banking-house, cost.	....	.....	....	.....	813,387 50
Real estate, 227 East Forty-fifth street, cost.	....	.....	....	\$17,183 86	79,093 50
Real estate, 30 President street, Brooklyn, cost.	....	.....	....	26,226 72	
Real estate, 32 President street, Brooklyn, cost.	....	.....	....	8,615 85	
Real estate, 851 Atlantic avenue, Brooklyn, cost.	....	.....	....	6,721 63	
Judgment claim and interest to first January.	....	.....	....	.....	58,748 06
Bankruptcy claim.	....	.....	....	.....	5,354 40
Cash in vault.	....	.....	....	\$20,000 00	10,000 00

ASSETS AND LIABILITIES of the *Mechanics and Traders' Savings Bank, etc — (Continued).*

	Rate of Interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Cash in Chatham National Bank..	3	.....	....	\$270,551 44	
Cash in Oriental Bank.....	3	.....	....	37,052 95	
Cash in Manufacturers and Merchants' Bank.....	4	.....	....	40,133 15	
Interest accrued.....	....	.....	....	.....	\$267,737 54
					17,050 00
					<u>\$1,688,021 00</u>
LIABILITIES.					
Due depositors.....	....	.....	....	\$1,670,919 39	
Due Vermilye & Co. for loan.....	....	.....	....	90,000 00	
Interest accrued.....	....	.....	....	19,000 00	
					<u>\$1,779,919 39</u>
Deficiency of assets.....	....	.....	....	.....	\$91,898 39

* In pencil.

ANNUAL INCOME from the investments of the Mechanics and Traders' Savings Bank as they were found upon examination made on the 7th day of March, 1876, and the annual charges thereon at current rates or estimated on the basis of 1875.

INVESTMENTS.	Rate of interest.	Amount at par.	Revenue.	Totals.
Bond and mortgages.....	7	\$436 650 00	\$30,565 50	
City and town bonds.....	7	596 500 00	41,755 00	
Cash in bank.....	3	207 600 00	6,228 00	
Cash in bank.....	4	40 133 00	1,605 32	
Additional interest on \$150,000 to be invested.....	....	.....	6,000 00	\$86,153 82
CHARGES.				
Interest to depositors.....	....	.....	\$98,900 00	
Interest on loans.....	....	.....	6,300 00	
Salaries.....	....	.....	7,020 00	
Internal revenue tax.....	....	.....	1,600 00	
Other taxes.....	....	.....	882 00	
All other charges.....	....	.....	2,000 00	116,702 00
Deficiency of income.....	....	.....	.....	\$30,548 18

EXAMINATION BLANK—No. 4.

Sundry Items of Assets, the Liabilities, also other Statistics of the Mechanics and Traders' Savings Bank, as found upon Examination made March 7, 1876.

Real estate owned, banking-house.

Location, 283 Bowery.

Dimensions of ground, twenty-seven by eighty-three.

Dimensions of building, covers whole lot.

Cost of ground, \$11,500.

Cost of building, \$67,593.50.

Estimated market value of real estate, \$100,000. *President's estimate.*

Amount of cash on hand:

In vault, \$20,000 (to be verified by examiner's count).

In banks or trust companies, viz. (to be verified by certificates of bank officers):

Chatham National Bank.....	\$170,551 44	3 per cent.
Oriental Bank.....	37,052 95	3 " "
Manufacturers and Merchants' Bank..	40,133 15	4 " "

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz.:

On bonds and mortgages	\$9,213 00
On stocks (exclusive of those in which interest accrued forms part of the market value, and is so extended),	7,712 00
On call loans	125 00
	<hr/>
	\$17,050 00
	<hr/>

On deposits in bank, \$.

What amount of the above is more than three months over due \$1,190.

Rents due and collectible or accrued to date. \$.

Any other properties constituting assets not included above nor in any other lists furnished, viz.:

227 East Forty-fifth street, New York, cost.....	\$17,183 86
30 President street, Brooklyn, cost.....	26,226 72
32 President street, Brooklyn, cost.....	8,615 85
851 Atlantic avenue, Brooklyn, cost.....	6,721 63
	<hr/>
	\$58,748 06
	<hr/>

Annual rental of real estate owned or leased, at current rates,
\$.

Rate of interest on call loans, .

Rate of interest on deposits in bank, etc., three and four percent.

Interest credited January 1, 187 , \$70,199.77; deposits, less interest, that date, \$2,357,464.77.

Interest credited July 1, 187 , \$69,875.20; deposits, less interest, that date, \$2,366,645.65.

Interest credited January 1, 187 , \$57,012.62; deposits, less interest, that date, \$1,920,559.80.

Interest credited July 1, 187 , \$; deposits, less interest, that date, \$.

Amount due depositors this date, \$1,670,919.39.

Estimate of interest accrued to depositors this date, \$

Any other debts or liabilities due or accrued this date not included above, viz.:

Loan from Vermilye & Co., \$90,000.

Miscellaneous facts relating to the condition and conduct of business of the Mechanics and Traders' Savings Bank, in the city of New York, as found upon examination made by direction of the Superintendent of the Bank Department, March 7, 1876 :

ORGANIZATION.

Charter number of trustees ? Twenty.

Number of vacancies ? Five.

Number constituting quorum ? Seven.

Officers elected or appointed from trustees ? President, two vice-presidents and secretary.

Officers, clerks and other employees, not members of the board ?

Book-keeper, clerk, janitor and two watchmen.

Standing or regular committees of the board, their powers and duties ? Finance committee, examining committee.

EXPENDITURES.

Salaries, current rate, viz. : President, \$2,000 ; Secretary, \$2,000 ; book-keeper, \$1,200 ; clerk, \$500 ; Janitor, \$600 ; two watchmen, \$720. Total \$7,020.

Other expenses, basis of 1875 and 6 : Rent, none ; internal revenue tax, \$1,600 ; other taxes, \$882 ; furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank-books, fuel, lights and attendance, other expenses, \$2,000.

CONDUCT OF BUSINESS.

Regular meetings of the board ? Monthly, second Monday.

Average attendance 1875 ? Twelve or thirteen.

Attendance of officers during business hours? President and secretary.

Attendance of trustees? Occasional.

Application for loans on bond and mortgage, how made? To president.

To whom referred? Finance committee.

Report on value of property, by whom made? Sub-committee.

To whom? Finance committee.

In what form? Writing.

Are applications for loans on bond and mortgage filed or otherwise preserved? Yes.

Ditto of reports concerning value of property? Yes.

Action by vote or otherwise — by whom necessary before money is advanced on bond and mortgage? Finance committee have power.

Ditto of stock investments?

Ditto of call loans?

Ditto of deposits in bank? Board.

How or by whom are the companies designated in which insurance as security for loans on bond and mortgage is effected? President.

Is the opinion of your counsel ever taken concerning the legality of investments otherwise than on bond and mortgage? Yes.

Opinion in writing or oral? Oral.

At what period does interest on deposits commence? Quarterly.

During what time must a deposit remain to be entitled to interest? Dividend day.

By what form of action is the rate fixed or declared? Vote of Board.

Is interest declared or fixed or promised in advance, or only at expiration of interest period? Expiration.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily? Supposed to be from profits.

Who is the responsible officer in charge of the conduct of business during business hours? President and secretary.

Hours during which bank is open? Daily from 10 to 3, Mondays and Wednesdays until 7 P. M.

Who receive and pay money over the counters? Secretary and clerk.

What memoranda or entries made by receiving teller of transactions? Ticket and pass-book.

What ditto by paying teller? Receipt and pass-book.

Who revises and compares these with cash at close of business? Secretary.

How often revised and checked and compared by any other officer or committee? Monthly by examining committee.

In whose custody, or accessible to whom, are the securities of the bank kept? President.

How often and by whom examined? Quarterly by examining committee.

How is their correctness verified?

At these examinations is the cash actually counted? Yes.

How is amount of cash deposited in bank ascertained by them? Bank-book written up.

Reports and statements of total cash received and disbursed, made by whom? Secretary.

To whom? Board.

How often? Monthly.

In what form? Writing.

How and by whom verified?

Ditto of assets and liabilities? Not made.

Bonds of officers, etc, viz. : Secretary, \$5,000; clerks, \$5,000.

In whose custody? President.

Number of open accounts? About 4,300.

Largest single? Seven thousand eight hundred dollars.

Number exceeding \$5,000.

Average? About \$388.

Are depositors allowed to draw checks upon their accounts? No.

By whom must the checks of the institution be signed? President and secretary.

Has any officer or trustee, to your knowledge, or according to your belief, ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? President and secretary say not to their knowledge.

Mr. TRACY. — Part of this is contained in the annual volume of the report delivered in 1877, at pages 291 and 292. The note from Mr. Reid is not printed there, but the tables of the report are printed.

Mr. CHAPMAN. — That is in the reports of this year, just out.

Mr. TRACY — Yes, this year, just out.

Q. Did you go over the January 1876 report of this bank with Reid before the president came up with Mr. Smith; did you go over it with Mr. Smith? A. Mr. Smith made some suggestions to me about some features of the report, and then I looked at them myself.

Q. Will you state, then, what was done in order, if you please?

A. The report was sent to the bank for an explanation of those features which we did not deem satisfactory, and the report was returned to us, and the explanation seemed to be insufficient, and it was again sent to the bank; Mr. Conklin, the president of the bank, then came up and brought the sheets (that is my recollection), and had some conversation with Mr. Ellis about it, and the matters which we desired to have explained were made entirely satisfactory; we got at the kinds and values of certain bonds that we were aiming to get at from the beginning.

Q. When you got at that what was done next? A. The report was tabulated and printed and a commission —

Q. [Interrupting.] Were there any means taken to ascertain the value of stocks? A. Yes, sir; that was a part of this matter of explanation and correction which I have spoken of in general terms.

Q. How did you get at these values? A. The North Carolina stocks were placed in a lump in the original report, and there being various classes we asked the officers of the bank to state the amount which they held of each class; having obtained that, I sent the list to Mr. Reid, of New York, to ascertain from some experts the value of each class so we might get at the value of those North Carolina bonds; Mr. Reid ascertained that value, and returned the sheet to us at Albany.

Q. Did you work out the condition of the bank with that correction?

A. So far as we could.

Q. How did you find it, sir? A. Well, we found a small deficiency of assets.

Q. Mr. Ellis was knowing to your transactions during all this thing? A. Yes, sir.

Q. Were any letters received from Mr. Reid about this bank along from the beginning of 1876 down? A. There are two letters, one of March 11th and one of March 15th, in respect to this bank; one of a later date.

Q. Produce them in their order, if you please, and read them?

“NEW YORK, *March 11, 1876.*

“HON. D. C. ELLIS:

“DEAR SIR. — I am going to the Mechanics and Traders' on Monday. So far I find a deficiency of about \$28,000, but I think there is an error in amount due depositors, which will swell the deficiency to \$100,000, and the deficiency of income is at least \$26,000. Their North Carolina bonds, 114,600, only average 11¼.

“Yours truly,

“GEO. W. REID.”

Q. Now read the next letter ? A.

“NEW YORK, *March 15*, 1876.

“HON. D. C. ELLIS:

“DEAR SIR. — The Mechanics and Traders’ deficiency is about what I supposed it would be from analyzing their report. I am not exactly satisfied that the amount due depositors is correct, as they say they have been too “shorthanded” to take off the balances for some years. I can’t see why the *rate* paid for dividend should be so large (5.94), unless the amount due depositors is larger than reported. Other banks that pay six per cent *on all amounts* rarely average more than 5.50.

“Truly yours,

“GEORGE W. REID.”

Q. Give the next letter ? A.

“NEW YORK, *May 26*, 1876.

“HON. D. C. ELLIS, *Superintendent, etc.*:

“DEAR SIR. — Called at Mechanics and Traders’ this morning. The balance from deposit ledgers *not yet finished*, although Fisher says they have been at work *nearly two months*. The general ledger shows \$1,400,000 due depositors. The longer they keep on the worse it will be for the last that remains at the closing up. They are still demanding the sixty days on payments, and I am surprised there is no run upon them ; but *dividend day* will probably bring on the crisis, unless they are closed by the Attorney-General before the time. If closed to-day, I don’t think believe would pay seventy-five cents on the dollar, even if amount depositors is correct.

“Yours truly,

“GEORGE W. REID.”

Q. Read the next ? A.

“NEW YORK, *June 14*, 1876.

“HON. D. C. ELLIS:

“DEAR SIR. — I see Conklin says ‘he is surprised at your proceeding against the Mechanics and Traders,’ as they can pay in full,’ etc. That is all nonsense, and he knows it. They won’t pay seventy-five, if they do seventy per cent.

“Yours truly,

“GEORGE W. REID.”

Q. Can you find any communication from the President of the bank to Mr. Ellis along about the last of May or the first of June ?

A. No, sir ; I think I have all the correspondence here.

Q. Any telegrams ? A. I know of none.

Q. Did you look into the condition of this bank along in 1874 and 1875 ? A. No, sir ; I did not particularly.

Q. After the January report of the bank in 1876 came in, did you have any conversation with Mr. Ellis about the bank ? A. Yes, sir ; we had some talk about it after Mr. Conklin came up.

Q. About what time was that ? A. I couldn't tell whether it was in January or the latter part of February.

By Senator GERARD :

Q. What year ? A. This was in 1876.

By Mr. TRACY :

Q. You think it was in the latter part of January or the beginning of February ? A. I should say it was in February, from recollection.

Q. What was said between yourself and Mr. Ellis then ? A. The chief talk was in regard to the report, and the items of the report, which we had no discussion with the officers of the bank.

Q. Tell what you said and what he said about the condition of the bank, and about the deficiency of its officers ? A. My impression was, from January, from the way the officers seemed to evade our inquiries, that they were not dealing squarely with the department in their reports ; as I have already stated, we had to send the report back twice, I believe, to reach the point we desired to ; there seemed to be an evasion on their part, and I expressed that opinion to Mr. Ellis ; as to the condition of the bank, I had no other opinion than is shown in the final report of the institution, amended under our inquiries.

Q. Was any thing said between you and Mr. Ellis about the closing of the bank ? A. No, sir ; not at that time.

Q. At any time along from January down later ? A. Not prior to the receipt of Mr. Reid's report.

Q. Did you then have any conversation with him about it ? A. About the time the bank was closed, along the latter part of May, I did.

Q. Will you state what it was ? A. I repeated to Mr. Ellis my opinion that the officers of the bank were not honest in their dealing with the department, and I expressed my apprehension of their closing the bank themselves when they reached the point where they could not go any further.

By Mr. CHAPMAN :

Q. This was about the time that the bank was reported to the Attorney-General by Mr. Ellis ? A. Mr. Ellis concurred with me in that conversation ? he had come to that conviction himself.

Q. And reported them to the Attorney-General right off ? A. Yes,

sir; I think our conversation was between the twenty-fifth of May and the first of June.

By Mr. TRACY:

Q. Have you Mr. Ellis' letter to the Attorney-General, of June 1, 1876? A. It is in our letter-book.

Q. Just read it, please?

Mr. CHAPMAN — Isn't that letter printed, Mr. Tracy?

Mr. TRACY — No, sir; I think not.

“June 1, 1876.

“Hon. CHAS. S. FAIRCHILD, *Attorney-General*:

SIR — In pursuance of section 44, chapter 371 of the Laws of 1875, I respectfully call your attention to the condition of the Mechanics and Traders' Savings Institution of the city of New York. From an examination recently made by me, it is found that the amount due depositors is about \$1,400,000, and the assets amount to only \$1,300,000. The proceeds are rapidly diminishing, and I can see no safety to the depositors in longer furnishing time permitting the bank to do business. I would, therefore, recommend that you institute the necessary legal proceedings to close up its affairs and dissolve the corporation.

“I have the honor to be, your obedient servant,

“D. C. ELLIS,

“*Superintendent.*”

This copy is very indistinct, and I read it with difficulty.

Q. Are there any other examinations of this bank on file than those which have been shown to you? A. Yes, sir.

Q. In 1875 or 1876? A. There are two examinations, made in 1874, none in 1875, and no other made in 1876; there is a regular examination made in May, 1874, and a special examination filed in December, 1874.

Q. The examination made March 31 and April 1, 1874; is that one of them? A. The one filed in my office May 12, 1874, was made on the thirty-first of March and first of April.

Q. What is the next one after that? A. That is the special made in the fall of 1874.

Q. What month? A. Examined October fifth and filed December fifth.

Q. Did the superintendent, at any time in 1874 or 1875, or 1876, issue any order to this bank to restrain its proceedings? A. Yes, sir, he did in 1874; an order to the bank?

Q. Yes, sir. A. No; he wrote a letter to the Attorney-General in 1874, is my recollection of it.

Q. An order to the bank under the statute?

Mr. CHAPMAN — The statute was not in force then.

Mr. TRACY — The old statute.

Q. You don't remember any such paper as that? A. I don't recall any such paper, if it was ever made.

Cross-examination :

By Mr. CHAPMAN :

Q. It has been attempted here to make some point over these corrections which were made in this report there; there was something significant in that; is there any thing strange under the practice of the department in sending these reports back for correction? A. We send probably half or three-fourths of the reports back every semi-annually or every annually reporting time.

Q. When you came to look over the reports and tabulate them and fix them for printing, you found there were errors clerical and otherwise, and they are sent back in that respect; that is so, isn't it, in some cases? A. The first thing is to get the report right before we can do any thing more with it; and if we don't get part of it to report on the examination, it is sent to the bank with the suggestion to do so and so with the items; we either don't understand or —

Q. [Interrupting.] Just notice my question and answer that; when that report comes in and you see that there are necessary corrections to be made of errors either clerical or otherwise, and you send it back to the bank for them to make those corrections? A. Yes, sir.

Q. Have you in the department any authority to change the figures of the reports which are given you under the oath of the officers? A. I don't know of any authority or law.

Q. So when you come to publish it you have to publish it as finally submitted to you? A. We do publish it.

Q. You know of no authority for changing any of those figures from their oaths, do you yourself? A. No sir; nor ourselves.

Q. Not only in the case of clerical error, but also in cases where there are things which you wish to have more fully returned, or thing concerning of which you wish an explanation, you sent back to the bank inquiring about that? A. Yes, sir.

Q. You pursued no different course in this case than you did in any other cases, except to watch more closely, because it was "running pretty closely to the wind?" A. The method was just the same as in other cases.

Q. And after their final reports came in they were not quite satisfactory to you, and you still set Mr. Reid to work? A. In the way of examination.

Q. In the way of examination in finding the value of these stocks?
A. Yes, sir.

Q. And subsequently sent him down to make examination of the bank? A. Yes, sir.

Q. And it was subsequently reported to the Attorney-General, as you have stated? A. Yes, sir.

Mr. McGUIRE — Mr. President, I desire to call the attention of the Senate so as to get the figures in a condensed form for an examination hereafter, to the fact that in the reports of the Superintendent, the Legislature in 1877, on page 291, which the counsel has read, the examiner reports that on the 7th of March, 1876, the deficiency of assets was \$91,898.39. It is merely for the condensation of figures; how, in that report, the examiner puts Tennessee, Alabama, North Carolina and South Carolina State bonds at an aggregate of \$186,167, as you will see by footing them up.

Now, in the printed book of testimony, taken before the committee, on page ten, it will be found that it reached, instead of these same four classes of bonds which the bank paid for, was \$427,071.25, being a difference of \$240,904.25, so that the Senate can see that it is nearly four times the amount of the deficiency — the loss on those bonds alone; those bonds and mortgages, and all the other property, was half the value, as reported by the bank.

Mr. CHAPMAN — And higher?

Mr. TRACY — Sum it up by and by.

George W. Reid, recalled on behalf of the State, testified as follows:

By Mr. TRACY:

Q. Mr. Reid, you have heard these examinations of yours that have been presented here? A. Yes, sir.

Q. You made them, did you? A. Yes, sir.

Q. What do you say about their being fair and faithful examinations? A. They are as fair and faithful as I can make them; I intended them to be so.

By Mr. CHAPMAN:

Q. At the time? A. Yes, sir, at the time.

By Mr. TRACY:

Q. After making those examinations did you meet Mr. Ellis and have any conversation with him about these things? A. I do not remember; I did sometime afterwards; I don't know how soon afterwards.

Q. About when? A. I have no distinct recollection when it was.

Q. Where was it you met him? A. After this last examination?

Q. Yes, or after the first; take it after the last if you have any memorandum about it? A. I don't recollect that I saw Mr. Ellis after the last examination.

Q. Did you see him after the former examination? A. At what time?

Q. At any time after the former examination? A. I presume so, I saw him frequently; every time he came to New York; occasionally during the summer, I stopped at the department in Albany.

Q. Did you in any of those meetings give him any information or impression about this bank? A. I can only say in general that I presume I did, for we have been in the habit of talking over these different banks when he came to New York, but unless something is called up to bring my attention to some particular thing, I don't remember any now, distinctly.

Q. Do you recollect whether any thing was said about the bank's dividends in exceeding its income? A. No, sir, I don't; except as a general thing for some time (some two or three years) there had been a deficiency of income.

By Mr. CHAPMAN:

Q. But it was a surplus? A. Yes, sir; but a deficiency of income

By Mr. TRACY:

Q. They were making dividends? A. [Interrupting.] But they were taking it from the surplus, if they had any, as the law read.

Q. Did you tell him [Mr. Ellis] about the ledgers of the bank or of any of the books being falsified? A. No, sir; I never knew or suspected any thing of the kind until about the time of my last examination.

Q. Was it before or after your last examination? A. It was about the time — a few days afterwards; you have my letters.

Q. Have you made any other examinations of this bank than these two? A. I think not; you have had them all here; all of the examinations I have made are now on record; I think there were three of them.

Q. Did you have any formal examination? A. Not what could be called examination? I would step in around and see how their business was running — whether they were paying out much money, whether more than they received — merely in an informal way, but no regular examination.

Q. You made no regular report of that? A. No, sir.

Q. No communication about it? A. No, sir.

Cross-examination :

By Mr. CHAPMAN:

Q. I understand you this was one of the banks you were keeping watch? A. Yes, sir.

Q. And not only had you made these three examinations in these two years, but you had also frequently gone in there and kept watch as to how they were getting along? A. Yes, sir; to see how the business was progressing.

Frederick F. Bellamy, being duly sworn on behalf of the State, testified as follows:

By Mr. TRACY:

Q. Mr. Bellamy, where do you reside? A. I live in Brooklyn.

Q. What is your occupation? A. I am a lawyer.

Q. Did you carry the complaint to Albany in this case, which was verified by Mr. Floyd?

Mr. CHAPMAN — Mr. President, that is all in evidence on page 65.

Senator GERARD — Nearly all of the witnesses who have testified this morning, have heretofore been examined in relation to this bank, and it strikes me when one of these witnesses has been fully examined and whose testimony is in print now before the Senate, is put upon the stand, it would be very desirable for the information of Senators, and very proper that the testimony should be restricted to new matter. I therefore suggest that the counsel, when calling their witnesses who have been examined, should make a statement on the point upon which they are to be examined, for the information of the Senate, so it shall be clear when the witnesses testify, and so there should not be a repetition of the testimony, and thus make the testimony unnecessarily voluminous.

The PRESIDENT — The chair stated yesterday that the counsel must restrict themselves to new matter.

Mr. TRACY — I only desire to ask a single question.

Q. You are the only person who went up with the complaint? A. Yes, sir; at the time.

Q. Where was the complaint left or what was done with it afterward?

Mr. CHAPMAN — That appears in the evidence already printed.

A. I left it with the Attorney-General.

Mr. TRACY — That is all I desire to prove by him, Mr. President. I desire to move for an attachment against a witness, and there is no other witness I desire to call except Mr. Kingsley, from the Albany county clerk's office, and he may be called without inconvenience during the examination, upon some other matter.

The PRESIDENT — The Chair would suggest that some officer be sent to the hotel to notify him that his presence is desired here.

Mr. TRACY — Shall we enter upon another case, sir? I can hardly keep the court waiting.

The PRESIDENT — The counsel must pursue their own course.

Mr. CHAPMAN — It is desirable that the people get through the other case sometime and somewhere.

Senator PRINCE — While we are waiting, Mr. President, I will say that I received from Mr. Samuel B. White an answer to some questions which I put to him when he was upon the stand. I had supposed, when I asked him for that information, that he would probably be recalled, as there was other information required of him by counsel on one side or the other which he was not at that time able to give. I find he has sent it up in writing, apparently not intending to be here. I do not know exactly what disposition should be made of this; whether it should be considered a part of the testimony or not. They are answers to three questions I put to him relative to the Brooklyn property, as to the amount bid for that property on the sale, and the amount of the legal expenses attending the foreclosure, and the amount of taxes and assessments deducted therefrom, and the exact locality of the property. I suppose only by consent can this be received as a part of the testimony.

Mr. TRACY — I have no objection to it upon our part, to having it received as a part of the testimony; I would, of course, rather have the gentleman here, as I don't know what the paper is.

Mr. OLMSTEAD — Mr. White was requested to send certain papers here.

Senator PRINCE — He states here that the mortgages have been sent up.

The Clerk here stated that such papers had been received.

Senator PRINCE — I desire to draw attention to the fact, that the expense of advertising is so small that it is impossible that it could have been advertised, except in the simple, legal way.

Senator GERARD — I object to the production of this testimony as irregular and irrelevant in matter.

The PRESIDENT — No motion has been made yet.

Senator PRINCE — Then I move that the witness be recalled by order of the Senate.

Senator GERARD — I object to that; the testimony is in its character, certainly, accumulating and it is immaterial as regards the expense of foreclosing — which was paid as a counsel fee or as attorney fee, or which was paid for taxes and assessments, may furnish no proper criterion of value and it would be very foolish to call this witness at the expense of the State to prove a matter of that character,

when the true way of getting at the value is, to call an expert and a man familiar with the neighborhood; I think there is testimony to that effect already in the printed book.

Senator PRINCE—The Senator from the Seventh [Mr. Gerard], has evidently forgotten the matter in question. When Mr. White was upon the stand I asked him while (he having stated that certain property realized as net assets, between \$34,000 in one case, and in another case between \$100 and \$200) how much the property sold for in the aggregate. He was unable to give it in detail. I asked him where the property was situated, so that we might by our own knowledge of the localities, or by experts, know what it was worth, and he said he was not able to give that information. I asked him as to the amount of taxes and assessments. He was unable to give that information, but would obtain that and forward it. I suppose he was to obtain it in the regular way, and he has sent it up in the other way. The witness has stated that this sale was advertised by handbills and in other ways to attract, and the statement for the plaintiff shows that that statement is incorrect, and that it should be brought to the Senate in the proper way.

The PRESIDENT—The question is upon the motion of the Senator from the First [Mr. Prince], that the witness Samuel B. White be recalled for further examination. Carried.

Mr. TRACY—Under the circumstances the most effective way, I suppose, would be to issue a subpoena to him returnable forthwith.

Senator GERARD—If the counsel can agree upon that statement, I will withdraw my objection.

The PRESIDENT—The motion has been carried.

Mr. CHAPMAN—I would suggest that he was discharged subject to return on a call by telegram, and there will be no necessity of putting the State to the expense of sending an officer for him.

Mr. TRACY—If the subpoena was so indorsed, we will telegraph him immediately, and get him in that way.

Senator HAMMOND—I understand the answers of this witness are in the letter sent to the Senator from the First [Mr. Prince], and is there any difficulty about adopting those answers as his evidence, that he would give if brought here? It seems to me that the importance of the evidence is not so great as to require the expense necessary to reproduce the witness here.

Senator PRINCE—I had supposed there would be no objection to receiving his answer as it was sent up in that way; it contains the precise figures in each case.

Senator VEEDER—I don't see why the statements are not entirely

competent. They are in response to a question asked him as a witness, and these answers are as much under oath as though he was stating them here in person. The only objection that can be made is that counsel have not the chance to cross-examine in regard to that. It seems to me if neither counsel object for not having an opportunity, they are entirely competent to be given here. They are in response to a question put to him upon the stand, and for want of information then he could not answer, but now he answers.

Mr. TRACY — We send the following dispatch : “Samuel B. White, Grocer’s Bank, New York. The Senate requests you for further examination. Come here immediately.” Signed by counsel upon both sides.

Senator PRINCE — Of course it is understood by the counsel, I suppose, that in case they consent to these answers being put in as a part of the evidence, that I have no desire to have him recalled.

Mr. TRACY — I think I could not consent to that, inasmuch as any interpretation of it by one of the Senators, it amounts to a contradiction, and the witness ought to have a chance to relieve himself of the contradiction if there is one.

Mr. CHAPMAN — I suppose we are entitled to that letter, to put it in, when it gets to our part of the case, and the moment we prove his handwriting it can be put in.

Mr. TRACY — Undoubtedly you have a right to put it in when the time comes.

The PRESIDENT — Have you any further evidence ?

Mr. TRACY — Nothing more in this case except the testimony of the deputy county clerk of Albany county, and to recall Mr. White.

Senator LAMONT — As the time has nearly arrived for the regular recess, I move that we take a recess until 4 o’clock this afternoon.

Lost.

Senator MCCARTHY — Mr. President, I desire to ask Mr. Lamb a few questions.

Henry L. Lamb, recalled on behalf of the Senate, testified as follows :

By Senator MCCARTHY :

Q. Is it possible for the Superintendent of the Banks or the Deputy Superintendent of the Banking Department to have a general knowledge of the savings banks of the State individually, that is of the character of the bank, the management of it, and its solvency or insolvency, as a general thing? A. I don’t think it is possible for either officer to have an intimate and exact knowledge.

Q. [Interrupting.] I don’t mean the intimate or exact knowledge ; I mean a general knowledge of the management and solvency or

insolvency of each savings bank in the State? A. No more knowledge than a Senator might derive from reading the reports of the banks and the reports of the examiner.

Q. How do you get at these reports; are they made to you from the banks themselves? A. Reports are made twice a year now, by the banks themselves.

Q. From the examinations of those reports and the general knowledge you have of the managers of the banks, don't you have somewhat of an idea as to the solvency or insolvency—do you not know more than that it is necessary to keep a closer and more intimate watch of some savings banks than others? A. Yes, sir; so far either officer has knowledge; but I don't understand the scope of your question.

Q. The scope of it is to know how far your impressions were favorable or unfavorable to each individual savings bank of the State; that is, you get an impression that they are all well managed and safe institutions, or else are not well managed and are unsafe and require close watching and special examinations? A. Speaking for myself, I get such information from the reports of the banks and of the examiner that I form my own opinion about each institution.

Q. All those reports and sources of information are in the possession of the Superintendent of the Banks as well as yourself? A. Yes, sir; they are in the bank department.

Q. For how long a time had the Mechanics and Traders' Bank been under the suspicion of insolvency in the department? A. From whatever assets called to it, particularly to all about February, 1876.

Q. Did you consider the report of October, 1875, a satisfactory report? A. You refer to the examiners' report?

Q. Yes, sir? A. That was a transaction that I had no knowledge of at that time.

Q. Into whose possession did that report go? A. Mr. Ellis and Mr. Reid made the examination, and the report was filed in the office and not printed; it didn't come to my notice.

Q. I don't know whether or not it would be fair to ask you if you had examined such a report as that, what your impression would be—that of October 5, 1874? A. I would say to the Senator, perhaps that this examination you speak of is not a regular examination, but a special one.

Q. The principal point I wish to get at is, whether the knowledge of the Superintendent of the Banking Department is such as to make him watchful and suspicious of every bank that makes a report of deficiency of assets and income, and whether there is not something in the management of each bank throughout the State that comes to his knowledge, so that, by inspiration as it were, he has an opinion

and a judgment in regard to the security and insolvency of every bank that is now in existence? A. As to almost all I have already testified, I obtained such information as to form an opinion.

Q. The same source you would have for information is in the possession of the Superintendent of the Banking Department? A. Yes, sir; the superintendent has more information than I.

By Mr. CHAPMAN :

Q. He may know of things which tend to relieve the bank or which tend to indicate to his mind that the bank, if given a little latitude, may go on to success, of which you have no knowledge? A. Yes, sir, that is very true, as I have testified several times.

By Senator COLE:

Q. Now, Mr. Lamb, as I understood from you the other day, this correspondence and all things connected with the examination of the banks come to you? A. No, sir; we didn't understand each other; the correspondence, usually, when I am in the office, passed through my hands; we have no corresponding clerk, save myself; the reports of the examiner and of the banks themselves go to clerks in the first instance.

Q. It don't go to Mr. Ellis? A. The reports of examiners or the reports of officers don't go through his hands in the first instance.

Q. Now, what I was trying to get at was this; suppose you have investigated a case like the one under consideration, coming to you as deputy, and you have no doubt about the bank from the reports or from any other source, do you report that to Mr. Ellis and advise with him about it? A. I think I have always presented such a case to him promptly.

By Senator ST. JOHN:

Q. I will ask you one question in relation to this bank Mr. Lamb; this bank, by its report, show that a very large proportion of its assets consisted of North Carolina, South Carolina, and Alabama bonds, none of which, for the last one or two years, have paid interest; now, I ask you if that would have led you to suspect (the simple report from your knowledge of the value of these bonds) the solvency of the bank? A. It was that very line of their securities which attracted my attention, and which I pursued in February before Mr. Reid's examination, and found a deficiency on my own appraisal and valuation of their southern securities, or a portion of them.

By Mr. CHAPMAN:

Q. It was that very thing which subsequently led to the bank being put into the hands of the Attorney-General, wasn't it? A. Yes, sir.

By Mr. McGUIRE:

Q. Have you looked over to see the amount of the assets of this bank? A. After failure?

Q. As reported by Mr. Reid, say in March, 1876, to see whether these securities constituted the largest portion of its assets; I will read from page 10 that these assets consist of \$2,307,933.88, and that the southern securities only amount to \$427,000; have you looked at that? A. Not for the purpose of comparison.

Q. You have a general idea? A. Yes, sir.

Q. That these southern securities constituted but a small portion of its assets instead of a large portion? A. Yes, sir; there was about \$450,000, I think.

Q. The only thing, as I understand you, that the department found fault with was the four classes of bonds (Tennessee, Alabama North and South Carolina)? A. In January, 1876, the only item we found fault with was the North Carolina's.

Q. The Tennessee bonds that this bank owned kept nearly at par? A. Yes, sir.

Q. And they amounted to \$100,000? A. Yes, sir.

Q. The subsequent depreciation in bonds was in the South Carolinas and Alabamas? A. Yes, sir.

Q. And they are reported as an asset at less than \$100,000? A. Yes, sir.

By Senator STARBUCK:

Q. Do you say that the examination of 1874 was not at the time brought to your knowledge? A. It did not come to my knowledge.

Q. State how soon it did come to your knowledge? A. I can't tell precisely; it was several months afterwards; I should think more than a year.

Q. Do you say that if the disclosures of that examination had been brought to your knowledge at the time, those disclosures were such as to create in the mind the necessity of immediate action?

Mr. McGUIRE — In whose mind — the witness'?

Senator STARBUCK — Anybody's mind to whom the disclosure was submitted, and who had the responsibility of action.

Mr. McGUIRE — I don't want to object to the Senator's question, but it seems to me it should be directed to the mind of the person to whom the attention of this bank was directed.

Q. Now, my question is, to a person charged with the responsibility of action, and to see that the disclosures of the report of 1874 were such as, in your judgment, to call for immediate action? A. If I had been informed of the result of the examinations of 1874, no doubt I should have concurred with the superintendent, who did take immediate action upon that examination.

Mr. CHAPMAN — The Senator will find that in the evidence printed before him.

By Mr. McGUIRE:

Q. That action you stated the other day? A. Not in this case; that matter has not been called up in this case since I have been upon the stand.

By Senator HARRIS:

Q. I would like to ask you whether there were any other savings banks than these that were reported by the Governor to the Senate, that held their securities in bonds of the southern States? A. I think there are other savings banks in New York which held some southern securities, banks which are now in operation.

By Mr. CHAPMAN:

Q. And in good standing? A. And are regarded —

By Senator HARRIS:

Q. [Interrupting.] Can you name them? A. I couldn't name them now.

Q. Can you name any one of them? A. Not positively; I can tell what they are by referring to their reports.

By Mr. McGUIRE:

Q. Don't you recollect the Bowery Bank? A. I don't recollect they held that line of securities; I should say, from recollection though I don't propose to be positive about it, that the Bleecker Street held a small line of securities.

By Mr. HARRIS:

Q. You could ascertain? A. Yes, sir; I could ascertain the facts exactly; here is the Brooklyn Savings Bank, a very successful bank, with \$15,000,000 of deposits and \$2,250,000 surplus, with Tennessee State bonds (two items) one of sixes and one of fives; see the report of examiner, page 268.

By Mr. MCGUIRE :

Q. One hundred and twenty-four thousand dollars appears upon page 268? A. Yes, sir; the Dry Dock Savings Bank, another large institution, regarded among the best, has South Carolina State bonds, new consolidated; page 275, \$86,000; valuation, fifty-three.

Mr. CHAPMAN — I submit to the Senate the propriety (it is not a thing we care any thing about, so far as respondent is concerned) of bringing up these questions for this reason, it is a kind of reflection (at least my friend tries to make it a reflection in the case of these banks, if they succeed in that upon) the other banks, who hold these bonds or securities. As I say, it is not a matter we have the slightest interest in, or that we care any thing about. If my friends upon the other side, or the Senate, see fit to admit evidence which, in any way, reflects upon any good institution, or tends to reflect upon them, why the responsibility should be there and not with us. Of course, the Senate has a right to go as far as they see fit in regard to that.

The WITNESS — Page 306 is another case, being the Seaman's Savings Bank; that is regarded as a particularly good institution.

By Mr. TRACY :

Q. How much have they got? A. One hundred and twenty thousand dollars; part of it rated thirty-six and part of it forty-three; \$46,000 and \$74,000; the first rated at thirty-six per cent and the second at forty-three.

Q. How much have they carried along as to the amount of the market value; about \$48,000? A. Yes, sir.

Q. What is the total amount of their assets? A. Pretty nearly \$19,000,000; on the next page (307) is the Sixpenny with Tennessee and South Carolina's (three issues); on page 308 is the South Brooklyn, with a line of Alabama's.

By Mr. MCGUIRE :

Q. State the Sixpenny Savings Bank's securities — Texas, Tennessee and North Carolina's? A. There are three classes of North Carolina's.

Senator HAMMOND — On page 309 is the Southern Tier Savings Bank of Elmira having Alabama bonds, I see.

The WITNESS — The Alabama county bonds. The bank does not hold them now. They got dollar for dollar and accrued interest at seven per cent. They were called to account for it. Dr. Aldridge and other gentlemen in the board went in and paid cash. I would here say that the examinations of all banks are not reported every year, so that quite a number of banks are not in this report.

By Mr. CHAPMAN :

Q. Three years ago there were a great many more of these bonds held by these savings banks, were there not? A. Yes, sir; I think there were.

Q. Nearly all of the savings banks invested in them more or less? A. Yes, sir.

Hale Kingsley, being duly sworn on behalf of the State, testified as follows:

By Mr. TRACY :

Q. Are you the deputy in the county clerk's office of Albany county? A. I am the deputy county clerk.

Q. Will you produce from the files of that clerk the summons and complaint in the action of the The People against the Mechanics and Traders' Savings Institution? A. That is not on file, sir.

Q. You couldn't find it on file? A. No, sir.

Q. You say you couldn't find them? A. No, sir; they undoubtedly have never been filed in the office; it is customary —

Q. [Interrupting.] No matter about custom; they have not been filed? A. No, sir.

Mr. TRACY — I have a certified copy of one of the papers.

Q. This is a paper you produced to Mr. Taylor? A. Yes, sir.

Q. This is the order of June 30, 1876, before Mr. Justice Osborn?

Mr. TRACY read the same as follows:

At a Special Term of the Supreme Court of the State of New York,
held at the City Hall, in the city of Albany, on the 30th day of
June, 1876.

Present — Hon. A. M. OSBORN, *Justice*.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Upon the order to show cause herein dated June 8, 1876, granted by Hon. J. S. Landon, a justice of this court, and upon proof of the service of the same, and after hearing E. W. Paige, Deputy Attorney-General for the plaintiff, and A. Crooke, Esq., for defendant:

Ordered, that the defendant, its officers and agents be and they are hereby restrained and enjoined from exercising any of the corporate rights, privileges or franchises of the defendant, and from collecting or receiving any debts or demands, and from paying out, or in any manner transferring or delivering to any person any of the moneys, property or effects of the said defendant; and it is further

Ordered, that William J. Best, of the city of New York, be and he hereby is appointed receiver of all the stock, property, things in action and effects, real and personal of said corporation, The Mechanics and Traders' Saving Institution, and of all property held by it with the usual powers and duties in such cases enjoined and exercised by receivers according to the practice of this court; it is also

Ordered, that before entering upon the duties of his office such receiver make, execute and deliver, and cause to be executed and delivered, by a sufficient surety or sureties, to be filed with the clerk of Albany county, a bond to the people of the State of New York, in the penal sum of \$100,000, conditioned for the faithful execution by said receiver of the trust in him placed, and the due performance of all duties appertaining thereto, said bond to be approved as to its sufficiency, form and manner of execution, by a justice of the Supreme Court, after due notice of the time and place of the making of the application for such approval has been first given to the Attorney-General of State of New York. Upon the filing of which bond thus approved, the receiver is authorized and directed to take possession of and sequester the stock, property, things in action and effects, real and personal, of said corporation, the defendant herein, and to take and hold all property held by or in the possession of said defendant corporation; it is further

Ordered, that all money, personal property, choses in action and effects of, or held by, said corporation, and all securities and obligations belong to said corporation, coming into the hands of said receiver, except articles of furniture and corporate books, and except the sum of \$5,000 to be retained by said receiver for the payment of necessary and incidental disbursements, be deposited with the United States trust company of the city of New York, to be held by said last-mentioned corporation subject to the further order of this court and to the credit of the receiver in this action, said money and securities so deposited as aforesaid with said United States Trust Company, not to be delivered over by it except subject to, and in pursuance of, the order of this court; it is further

Ordered, that the said receiver do also forthwith proceed and recover, by process of law or otherwise, pursuant to statute in such cases provided, any sum which may be due to said corporation if the person so indebted be not wholly insolvent; it is further

Ordered, that before any distribution of any of said funds or assets shall be made, and within six months from the date of this order, the said receiver report to this court, after giving notice of his intention so to do to the Attorney-General, his proceedings under this order

with an exhibit of the accounts and demands for and against said corporation and all its open and subsisting contracts and a statement of the amount of the money and assets in the hands of said receiver together with a statement of his expenses and commissions, to the end that such order may be made in regard thereto as the nature of the case may require, and it is further

Ordered, that until the coming in of said report, and the hearing thereon, the question as to the distribution of said assets and moneys and the rights and interests of the respective parties claiming the same or any portion thereof, be reserved for further directions, it is further

Ordered, that such further application may be made to the court on the footing of this decree, as the receiver may be advised is proper and necessary for his instruction in the management and conduct of his trust, it is further

Ordered, that except as herein ordered and directed, the said receiver shall not dispose of, or in any manner interfere with, any of the assets of said bank, directed to be deposited with the United States Trust Company.

It is hereby further ordered, that said receiver shall immediately (upon the approval of the bond therein required to be given), in the presence of the Superintendent of the Banking Department of the State of New York, take the assets so directed to be deposited from said bank and deposit them with the said United States Trust Company, and take from said trust company a receipt, stating that such assets are received under and in pursuance of the provisions of this decree, and under the restrictions as to their transfer or disposition in this decree mentioned; it is further

Ordered, that no application shall be made to any court, nor shall any action of the court be asked or suffered by the receiver relative to, or in any way connected with, the duties of said receiver or the funds or assets of the defendant above mentioned or their transfer, sale or delivery, unless a five days' notice of such application be first given to the Attorney-General of the State of New York.

Entered in Albany county clerk's office.

A. M. OSBORN,

Justice Supreme Court.

Senator VEEDER — Mr. President, the time at which it is generally understood we ought to take a recess has long since passed; it is considerably after 1 o'clock, and many Senators are absent, and I move we take a recess until 4 o'clock this afternoon. Lost.

Mr. TRACY — Another paper produced by the witness in the case is the report of the receiver, of the 25th of July, 1876. The paper

is very long and I will not read it entirely. The first note is *nota bene*. If the above mentioned —

A Senator — Is this put in evidence? ;

Mr. TRACY — We put the whole of it in evidence, but I call attention to some parts of it.

Senator GERARD — Is this to be copied by the stenographer?

Mr. TRACY — It will not be very long in print.

Senator GERARD — I want to know whether it is to be put in evidence. It is a summing up apparently. I would like a statement from the counsel what the object of reading it is — whether it is evidence or what.

Mr. TRACY — The design is to show that this, the receiver's report of what he found and the condition of the bank, and his notes about it, according to regularity and practice, it should be read fully before going into evidence, but for the convenience of the Senate I desire to call attention to certain parts of it, and then put it in print, the whole afterwards.

Mr. MCGUIRE — I don't understand that the Senate has ruled that any statements made by the receiver are admissible as evidence. The counsel says that he desires to call the attention of the Senate to certain *nota bene* of the receiver. I understand the ruling to be that it was admissible as only showing what the property sold for, as some evidence of value; I do not understand that the Senate has decided that any statement of the receiver, either written or oral, is to be given in this case, and I, therefore, object.

The PRESIDENT — The counsel for the State proposes to give in evidence a report of the receiver in this case, and counsel for the respondent objects, and that question will be submitted to the Senate.

Mr. MCGUIRE — I understand the Senate to have decided that the schedule of property made by the receiver was admissible; what I object to is any statement with notes made by the receiver along in the report; I don't object to it for the purpose of showing what property came into his hands.

The PRESIDENT — Counsel for the respondent objects to the notes or memoranda made by the receiver.

Mr. MCGUIRE — The comments made by the receiver along.

Senator KENNADAY — Mr. President, I understood that the counsel for the State desired to put that in evidence.

Mr. TRACY — To put the whole of it in evidence; I was merely indicating some things for convenience.

The PRESIDENT — The question is upon receiving the entire report.

Senator BRADLEY — Mr. President, I understood that the ruling substantially has been to receive the report of the receiver; I suppose

that in that view it is competent as a report; if there is any thing in this paper that is not legitimately part of the report, perhaps it would not be evidence strictly; but it is difficult to see how we are to exclude a portion of it, except to receive it and to treat such parts as evidence as are legitimate parts of the report; I understand the counsel that there are some matters in it that do not apply to it properly as a report; I believe that is the view he takes of it; if that is so, it seems to me it would be strictly not evidence.

The PRESIDENT—The question is upon the admissibility of the entire report.

The question was then put and the report rejected.

Mr. MCGUIRE—I don't object to the report of property.

The PRESIDENT—That is the action of the Senate anyway.

Mr. TRACY—I offer in evidence another receiver's report of the sale and notice of sale, with order confirming sale. If there is no objection, I leave them marked in evidence and refer to them hereafter.

NEW YORK SUPREME COURT.

THE PEOPLE, ETC., *against* THE MECHANICS AND TRADERS' SAVINGS INSTITUTION.

I hereby admit due service of a copy of the receiver's report of date of the real property of the defendant, and notice of the presentation of said report for confirmation; and I hereby consent that such motion may be made at special term of this court, to be held in and for the city and county of New York, for the reason that the property sold is situated in the cities of New York and Brooklyn, and the purchasers all residents of said cities.

CHARLES S. FAIRCHILD,
Attorney-General.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS AND TRADERS' SAVINGS INSTITUTION.

Please take notice that the receiver's report of sale, of which a copy is herewith served upon you, will be presented at a special term of this court, to be held in the county court-house in the city of New York on the 9th day of April, A. D. 1877, at 10 o'clock A. M., of said day,

and application will then and there be made to the court for such order and direction in the premises as the court shall see fit to make.

Dated NEW YORK, *March 31, 1877.*

Yours, etc.,

FRED. SMYTHE,

Attorney for Receiver, 21 Nassau St., N. Y.

To Hon. C. S. FAIRCHILD, Attorney-General.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

RECEIVER'S REPORT OF SALE.

To the Supreme Court of the State of New York:

The undersigned, receiver of the Mechanics and Traders' Savings Institution, respectfully reports that pursuant to two orders made in this action, both of which were duly entered in Albany county clerk's office, one on the 25th day of September, A. D. 1876, and the other on the 7th day of March, A. D. 1877, the undersigned, for the purpose of complying with the requirements of said orders, caused the real property of the defendants, situated in the city and county of New York, described in the schedule forming part hereof as parcels Nos. (1) one and (2) two, to be sold at public auction on the 22d day of March, A. D. 1877, at the Exchange salesrooms, No. 111 Broadway, in said city, having first given public notice of the time and place of such sale in the manner required by said order, by causing notice of the sale thereof to be published for at least ten days prior to the day of sale in the "Daily Register," a newspaper published in said city and county, as appears by the proof of publication of said notice hereunto annexed, marked Exhibit No. 1, to which the undersigned refers.

That in addition to publishing said notice in said "Daily Register," the undersigned caused notice of the time and place of such sale, with a brief description of the premises to be sold, to be published in the "New York Herald," a newspaper of large circulation, also published in said city, and also caused and procured hand-bills or posters, containing a description of the premises to be sold, and the time and place of sale, to be affixed to the premises and in various public places in the city of New York, most likely to call the attention of purchasers to said sale, and that annexed hereto, marked Exhibit No. 2, is a copy of said hand-bills or posters.

That on the 22d day of March, A. D. 1877, the undersigned attended, at the Exchange salesrooms in said city, at the time appointed in said notice of sale, and then and there caused the said premises to be publicly exposed for sale at public auction by William Kennedy, a duly licensed auctioneer, pursuant to the requirements of said orders, and subject to the approval of such sale by this court, and to certain terms of sale, a copy of which terms of sale is also hereunto annexed, marked Exhibit No. 3.

That at such sale the premises were put up in separate parcels, and that the premises designated as parcel No. 1 on the schedule hereto annexed was struck down to and purchased by H. D. Finn for the sum of \$27,500, he being the highest bidder, and that being the highest sum bid therefor at such sale.

That the premises designated as parcel No. 2 on the said schedule were struck down to and purchased by Frederick McReady for the sum of \$10,000, he being the highest bidder, and that being the highest sum bid for said premises at such sale.

That the said purchaser signed and otherwise complied with the terms and conditions of the sale of said premises to them respectively, and paid to the undersigned ten per cent of the amount of their respective bids, and also the fees of the said auctioneer for making such sale.

That pursuant to the directions contained in said orders, and for the purpose of carrying out and complying with the requirements thereof, the undersigned also caused the real property of the defendant situated in the city of Brooklyn, Kings county, together with the premises, the title to which at the present time stands in the name of the undersigned, receiver aforesaid, and which are designated in the said schedule hereunto annexed, as parcels number 3 (three), 4 (four) 5 (five), 6 (six), to be sold in separate parcels at public auction, having first given public notice of the time and place of sale, by causing such notice to be published for at least ten days prior to the day appointed for the sale thereof in the "Brooklyn Daily Union and Argus," and in the "Brooklyn Daily Eagle," two newspapers printed and published in the city of Brooklyn, in the county of Kings, as will appear by reference to the proof of the publication of said notice of sale hereunto annexed, marked exhibits Nos. 4 and 5.

That in addition to publishing said notice of sale in the said two newspapers as aforesaid, the undersigned caused hand-bills or posters containing a description of the premises to be sold, and the time and place of sale to be affixed to the premises and in various public places in the city of Brooklyn, county of Kings, where said premises are situated, a copy of which is hereto annexed, marked Exhibit No. 6.

That on the 23d day of March, A. D. 1877, at 12 o'clock noon, of said day, the undersigned attended at 379 Fulton street, in said city of Brooklyn, the place named in said notice of sale, and then and there caused the said premises to be publicly exposed for sale at public auction, in separate parcels, by John F. James, a duly licensed auctioneer, pursuant to the requirements of said orders, and subject, also, to certain terms and conditions of sale, a copy of which terms of sale is hereto annexed, marked Exhibit No. 7.

That at such sale the premises designated upon said schedule as parcel No. 3, and upon said posters as No. 30 President street, were struck down to and purchased by Aras G. Williams for the sum of \$5,000, he being the highest bidder and that being the highest sum bid therefor.

That the premises designated in said schedule as parcel No. 4, and upon said posters as 32 President street, were struck down to and purchased by Aras G. Williams, for the sum of \$3,650, he being the highest bidder and that being the highest sum bid therefor.

That the premises designated on said poster by the number 3, being part of parcels Nos. 3 and 4 on said schedule, were struck down to and purchased by Everett Newton for the sum of \$800, he being the highest bidder and that being the highest sum bid therefor.

That the premises designated on said schedule as parcel No. 5, and upon said posters as No. 851 Atlantic avenue, were struck down to and purchased by T. G. Matthews for the sum of \$3,650, he being the highest bidder and that being the highest sum bid therefor.

That the premises designated on said schedule as parcel No. 6, and on said posters by the numbers 1424, 1422, 1420, 1418, 1416, 1414, were struck down to and purchased by George V. Brown, for the sum of \$6,225, he being the highest bidder and that being the highest sum bid therefor.

That each of said purchasers complied with the terms of sale by signing said terms, and by paying to the undersigned ten per cent of their respective bids, and the fees of the said auctioneer.

The undersigned further reports that the sale of each of said parcels was made as aforesaid, subject to the approval of this court, as required by said orders.

The undersigned further reports, that the premises purchased by the said Finn, at said sale, were used by the defendant as a banking-house for the transaction of its business, and that it appears from an examination made by the undersigned of the books of the defendant in his possession, that the lot of land and the buildings thereon erected cost the defendant the sum of about \$60,000; that the building on said lot was completed in the year 1868, and is a well constructed and substantial building, and well located for business purposes, and that in

the opinion of the undersigned the price realized at said sale was insufficient, and that the premises are reasonably worth, at the present time and the present depreciated value of real estate, the sum of \$35,000.

That as to the premises situate on Forty-fifth street, and which were purchased at said sale by Frederick McReady, the undersigned believes that the price realized at said sale therefor was a fair and reasonable price, and all that could be obtained at the present time for said premises.

That as to the premises numbers 30 and 32 President street, in the city of Brooklyn, and the stable lot in the rear of said premises, fronting on Van Brunt street, and which were purchased by Mr. Williams and Mr. Newton, as aforesaid, the undersigned is of the opinion that the said premises did not realize at said sale their present market value.

That as to the premises number 851 Atlantic avenue, in said city of Brooklyn, purchased by T. G. Matthews, at said sale, the undersigned is of the opinion that the price realized at said sale for said premises was fair and reasonable.

That as to the premises purchased by George V. Brown at said sale, the undersigned is of the opinion that the price realized therefor was not a fair and reasonable price. The said premises are now reasonably worth at least \$7,000.

The undersigned respectfully refers to the affidavits of William Kennelly, John F. James and James H. McDonough, hereunto annexed, as to the reasonableness of the prices bid at such sale for all of said property, and for the grounds of his opinion as to said prices.

The undersigned respectfully submits the matter to this honorable court for its direction and action in the premises.

All of which is respectfully submitted.

WILLIAM J. BEST,
Receiver.

CITY AND COUNTY OF NEW YORK, ss.:

William J. Best, being duly sworn, says that the foregoing by him subscribed is true to his own knowledge, except as to the matters which are therein stated to be on information and belief, and as to those matters he believes it to be true.

WILLIAM J. BEST,
Receiver.

Sworn to this 3d day of }
April, A. D. 1877. }

JAMES H. WYNNE,
Notary Public City and County N. Y.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court, made in the above-entitled action, and entered in Albany county clerk's office, of the 25th day of September, A. D. 1876, and the 7th day of March, A. D. 1877, the undersigned, receiver of the Mechanics and Traders' Savings Institution, will expose for sale, at public auction, by William Kennelly, auctioneer, at the Exchange salesroom, No. 111 Broadway, in the city and county of New York, on Thursday, the 22d day of March, A. D. 1887, at twelve o'clock noon of said day, the following described parcels of land and premises, viz.:

PARCEL No. 1.

All that certain lot, piece or parcel of land situate, lying and being on the easterly side of the Bowery, which is distant twenty-three northerly from the north-easterly corner of the Bowery and Houston street, and running thence easterly along the northerly line of the lot of land designated on a map made by the commissioners in partition (now on file in the register's office of the city and county of New York, and numbered [636] six hundred and thirty-six), by the number (1) one, being on a line parallel with Houston street, seventy feet one inch to the westerly line of the lot of land designated on said map as lot number (7) seven, being on a line parallel with the Bowery, twenty-seven feet two inches; thence westerly along the southerly side of the lot of land designated on said map as lot number (3) three, being a line parallel with Houston street, or nearly so, seventy feet one inch to the easterly side of the Bowery, twenty six feet two inches to the place of beginning, said lot being known and distinguished on said map as lot number (2) two, and being also known by the street number (283) two hundred and eighty-three Bowery.

PARCEL No. 2.

All that certain lot of land, in the nineteenth ward of the city of New York, bounded and described as follows: Beginning at a point on the northerly side of Forty-fifth street, distant three hundred and twenty-five feet westerly from the north-westerly corner of Forty-fifth street and Second avenue; and running thence westerly along said northerly side of Forty-fifth street twenty-five feet; thence northerly and parallel with Second avenue, one hundred feet and five inches to the center line of the block between Forty-fifth and Forty-

six streets; thence easterly along said central line of the block and parallel with Forty-fifth street twenty-five feet; and thence southerly and parallel with Second avenue and partly through the center of a party wall, one hundred five inches to the northerly side of Forty-fifth street, to the point or place of beginning.

The sale of the said premises will be made for cash and subject to the approval of the Supreme Court.

Dated NEW YORK, *March 8, 1877.*

WILLIAM J. BEST,

Receiver of the Mechanics and Traders' Savings Institution.

FRED'K SMYTH,

Attorney for Receiver, 21 Nassau street, N. Y.

COUNTY OF NEW YORK, ss.:

William Kennelly, being duly sworn says, that he is a real estate broker and auctioneer, carrying on business as such in the city of New York, for sixteen years and upwards.

That deponent as such auctioneer, by, and under the direction of William J. Best, the receiver of the Mechanics and Traders' Savings Institution, sold at public auction, at the Exchange salesrooms, No. 111 Broadway, in said city, on the 22d day of March, A. D. 1877, two parcels of real estate property with the buildings thereon erected, which are described in the printed notice of sale annexed to the receiver's report of sale herewith annexed.

That said parcels were sold separately, and that the sale was in all respects fairly conducted, and said parcels were struck down, the first to H. D. Finn, for twenty-seven thousand five hundred dollars, and the second to Frederick McReady, for the sum of ten thousand dollars.

Deponent further says, that prior to said sale, at the request of the receiver he examined both of said parcels and the premises thereon erected.

That, in the opinion of this deponent, the premises purchased by the said Finn, at said sale, are worth, at the present time, the sum of \$35,000 for banking or insurance business.

That, as to the second parcel sold to and purchased at said sale by Frederick McReady, deponent is of the opinion the price realized therefor was reasonable, and at the present time and in the present depressed condition of the market for real estate, was as high a price as could reasonably be obtained for said premises.

WM. KENNELLY.

Sworn to this 3d day of {
April, A. D. 1877. }

JAMES H. WYNNE,

Notary Public, City and County of N. Y.

CITY OF BROOKLYN, }
COUNTY OF KINGS, } ss. :

James H. McDonnough, of said city, being duly sworn, says that he resides at No. 78 President street in said city, and that he is the owner of real property situated in the vicinity of Nos. 30 and 32 President street, and that he is familiar with the value of real property in said city at the present time.

That, in deponent's opinion, the premises designated on the hand-bill or poster, annexed to the affidavit of John F. James, were, on the 23d day of March, A. D. 1877, and that they are now, of the reasonable market value of _____, and that the prices realized at the recent sale of said premises by Mr. Best, as receiver of the Mechanics and Traders' Savings Institution, did not come up to the present reasonable market value of said premises.

JAMES H. McDONNOUGH.

Sworn to this 31st day of {
March, A. D. 1877. }

BERNHARD DEGENKOLB,

Notary Public, Kings Co.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court made in the above-entitled action, and entered in Albany county clerk's office on the 25th day of September, A. D. 1876, and the 7th day of March, A. D. 1877, the undersigned, receiver of the Mechanics and Traders' Savings Institution will expose for sale at public auction by John F. James, auctioneer, at 379 Fulton street, in the city of Brooklyn, city salesroom, in the county of Kings, on Friday the 23d day of March, A. D. 1877, at 12 o'clock, noon, of the said day, the following described parcels of land and premises, viz. :

PARCEL No. 3.

All that lot of land in the city of Brooklyn, bound as follows : Beginning at the south-easterly corner of President and Van Brunt streets, and running thence southerly on the easterly line of Van Brunt street eighty feet ; thence easterly and paralled with President street twenty-three feet ; thence northerly and parallel to Van Brunt street eighty feet, to the southerly line of President street ; and thence

westerly along the southerly side of President street twenty-three feet, to the place of beginning.

PARCEL No. 4.

All that certain lot of land in the Sixth ward of the city of Brooklyn, bounded and described as follows: Beginning at a point on the southerly side of President street, distant twenty-three feet from the corner formed by the intersection of the easterly side of Van Brunt street with the southerly side of President street; running thence southerly and parallel with Van Brunt street eighty feet; thence westerly and parallel with President street twenty-three feet to the easterly side of Van Brunt street; thence southerly along said easterly line of Van Brunt street twenty feet; thence easterly and again parallel with President street forty-five feet; thence northerly and again parallel with Van Brunt street 100 feet to the southerly line of President street, twenty-two feet, to the place of beginning.

PARCEL No. 5.

[All that certain lot, piece or parcel of land situate, lying and being in the Twentieth ward of the city of Brooklyn, and bounded and described as follows; Beginning at a point on the northerly side of Atlantic avenue distant twenty feet easterly from the north-easterly corner of Atlantic avenue and Hamilton street; running thence northerly at right angles to Atlantic avenue forty feet; thence more northerly and parallel with Hamilton street eighteen feet six inches; thence easterly at right angles to Hamilton street eighteen feet two and one-half inches; thence southerly and again parallel with Hamilton street twenty-six feet seven and three-quarter inches; thence more southerly and again at right angles to Atlantic avenue forty feet to the northerly side of Atlantic avenue; thence westerly along the northerly side of Atlantic avenue twenty feet to the point or place of beginning. The northerly and southerly courses upon the said premises on each side thereof runs through party walls.

PARCEL No. 6.

All that certain parcel of land in the ninth ward of the city of Brooklyn, bounded and described as follows: Beginning at the south-east corner of Hudson avenue and Baltic street, and running easterly along Baltic street 120 feet; thence southerly and parallel with Hudson avenue 135 feet and eight inches to the line of Remsen farm; thence south-westerly along said farm line sixty-eight feet and eleven inches; thence westerly parallel with Baltic street fifty-four feet and five inches to Hudson avenue; thence northerly along Hudson avenue one hundred and fifty-six feet and nine inches to the place of beginning.

The sale of the said premises will be made for cash, and subject to the approval of the Supreme Court.

WILLIAM J. BEST,

Receiver of the Mechanics and Traders' Savings Institution.

FREDERICK SMYTHE,

Attorney for Receiver, 21 Nassau street, New York.

Dated NEW YORK, March 8, 1877.

CITY OF BROOKLYN, } ss. :
COUNTY OF KINGS,

John F. James, of said city, being duly sworn, says, that he is a duly licensed auctioneer, carrying on business as such in the city of Brooklyn, Kings county, for six years and upwards ; that on the 23d day of March, 1877, by and under the direction of William J. Best, receiver of the Mechanics and Traders' Savings Institution, he sold at public auction, at No. 379 Fulton street, in said city, the premises described in the annexed printed notice of sale and in the hand-bill or poster which is annexed to the said receiver's report of sale, also hereto annexed.

That the said premises were sold in separate parcels, as shown on said hand-bill or poster, and that such sale the premises Nos. 30 and 32 Presidentstreet, corner of Van Brunt street were struck down to and purchased by Anas G. Williams, No. 30, for the sum of \$5,000, and No. 32 for \$3,650.

That the stable in the rear of the said premises, and fronting on Van Brunt street, were struck down to and purchased at said sale by Everett Newton for \$800.

That the premises designated on said hand-bill or poster as No. 851 Atlantic Avenue, near Hamilton street, were struck down to and purchased at said sale by T. G. Matthews, for \$3,650.

That the premises designated on said hand-bill or poster by the numbers 1424, 1422, 1420, 1418, 1416, 1414 were sold as one parcel, and were struck down to and purchased at said sale by George V. Brown for \$6,225.

That the said sale was, in all respects, fairly conducted, and the premises were struck down to the highest bidder for each parcel sold.

Deponent further says that before making such sale, and at the request of said receiver, deponent examined the several parcels of land and the buildings thereon erected, and that, in the opinion of this deponent, the premises No. 851 Atlantic avenue, purchased by T. G. Matthews, as aforesaid, brought a fair and reasonable price, and all that said premises would realize at a sale thereof at the present time, in the depressed state of the market for real estate.

That, in deponent's opinion, the premises Nos. 30 and 32 President street, purchased by Mr. Williams, were at the time of said sale, and are now, worth together, *at least*, the sum of \$10,000, and that the prices realized at said sale for said premises are less than the same were then and are now reasonably worth.

That, in deponent's opinion, the premises being the two-story stable and lot upon which the same is erected, and which were purchased at said sale by Everett Newton as aforesaid, are, and were at the time of sale, worth, at least, the sum of \$1,000, and that the price realized at said sale was not equal to the present market-value thereof.

That, in the opinion of deponent, the premises designated on said hand-bill or poster by the numbers 1424, 1422, 1420, 1418, 1416, and 1414, and which were purchased at said sale by George V. Brown as aforesaid, did not realize their present market value, and that the said premises were then and are now reasonably worth the sum of \$7,000.

JOHN F. JAMES.

Sworn to this 5th day }
of April, 1877. }

THOMAS T. OKER, Jr.,

Notary Public, New York County.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court, made in the above-entitled action, and entered in Albany county clerk's office, on the 25th day of September, A. D. 1876, and the 7th day of March, A. D. 1877, the undersigned, receiver of "The Mechanics and Traders' Savings Institution," will expose for sale at public auction, by William Kennelly, auctioneer, at the Exchange salesroom, No. 111 Broadway, in the city and county of New York, on Thursday, the 22d day of March, A. D. 1877, at twelve o'clock, noon, of said day, the following described parcels of land and premises, viz.:

PARCEL No. 1.

All that certain lot, piece or parcel of land situate, lying and being on the easterly side of the Bowery, between Houston and First streets, in the city of New York, more particularly bounded and described as

follows, to wit: Commencing at a point on the easterly side of the Bowery, which is distant twenty-three feet northerly from the north-easterly corner of the Bowery and Houston street, and running thence easterly along the northerly line of the lot of land designated on a map made by the commissioners in partition (now on file in the register's office of the city and county of New York, and numbered [636] six hundred and thirty-six) by the number (1) one, being on a line parallel with Houston street, seventy feet one inch to the westerly line of the lot of land designated on said map as lot number (7) seven; thence northerly along the westerly line of said lot, designated on said map as number (7) seven, being a line parallel with the Bowery, twenty-seven feet two inches, thence westerly along the southerly side of the lot of land designated on said map as lot number (3) three, being a line parallel with Houston street, or nearly so, seventy feet one inch to the easterly side of the Bowery; and thence southerly along the easterly side of the Bowery twenty-six feet two inches to the place of beginning; said lot being known and distinguished on said map as lot number (2) two, and being also known by the street number (283) two hundred and eighty-three Bowery.

PARCEL No. 2.

All that certain lot of land in the Nineteenth ward of the city of New York, bounded and described as follows: Beginning at a point on the northerly side of Forty-fifth street, distant three hundred and twenty-five feet westerly from the north-westerly corner of Forty-fifth street and Second avenue, and running thence westerly along said northerly side of Forty-fifth street twenty-five feet; thence northerly and parallel with Second avenue one hundred feet and five inches to the center line of block between Forty-fifth and Forty-sixth streets; thence easterly along said center line of the block and parallel with Forty-fifth street twenty-five feet; and thence southerly and parallel with Second avenue, and partly through the center of a party wall, one hundred feet five inches to the northerly side of Forty-fifth street to the point or place of beginning.

The sale of the said premises will be made for cash, and subject to the approval of the supreme court.

WILLIAM J. BEST,

Receiver of the Mechanics and Traders' Savings Institution.

FRED'K SMYTH,

Attorney for Receiver, 21 Nassau street, N. Y.

Dated NEW YORK, March 8, 1877.

David S. Owen, being duly sworn, saith that he is the principal

clerk in the office of *The Daily Register*, a newspaper printed in the city of New York; that the advertisement hereto annexed has been regularly published in the said *The Daily Register* daily for twelve days successively, commencing on the 9th day of March, 1877.

DAVID S. OWEN.

Sworn to before me, this 23d day }
of March, 1877.

J. B.

Notary Public, New York.

WILLIAM KENNELLY, SHERIFF'S REAL ESTATE AUCTIONEER, OFFICE,
No. 5½ PINE STREET. SUPREME COURT SALE.

(Diagram omitted.)

Wm. Kennelly will sell at auction, on Thursday, March 22d, 1877 at 12 o'clock, at the Exchange salesroom, 111 Broadway, under the direction of Wm. J. Best, Esq., Receiver, the valuable white marble building, No. 283 Bowery, and known as the Mechanics and Traders' Savings Institution. Also the five story double tenement brick house No. 227 East 45th street, between 2d and 3d avenues. For dimensions, see above diagram. Maps at auctioneer's office, also at the office of Frederick Smyth, Esq., attorney, No. 21 Nassau street.

De Lacy and Willsoin, Mercantile Steam Printers, Nos. 99 and 101 William street, New York.

NEW YORK SUPREME COURT.

THE PEOPLE, ETC., *against* THE MECHANICS AND TRADERS' SAVINGS INSTITUTION.

The premises described in the annexed advertisement of sale will be sold by and under the direction of William J. Best, receiver of said defendant, upon and subject to the following terms:

WM. J. BEST, *Receiver*.

Dated *March 23*, 1877.

First. The said premises will be sold pursuant to the orders made in the above-entitled action, mentioned in the said advertisement, and also subject to the approval of the Supreme Court.

Second. Ten per cent of the purchase-money of the said premises will be required to be paid to said receiver, at the office of F. Smyth, No. 21 Nassau street, in the city of New York, on the 12th day of April, 1877, at 12 M. of said day, when and where the receiver's deed will be ready for delivery.

Fourth. The receiver is not required to send any notice to the pur-

chaser, and if the purchaser neglects to call at the time and place above specified, to receive his deed, he will be charged with interest thereafter on the whole amount of his purchase, unless the receiver shall deem it proper to extend the time for the completion of said purchase.

Fifth. All taxes, assessments, and other incumbrances which, at the time of sale are liens or incumbrances upon said premises, will be allowed out of the purchase-money, provided, the purchaser shall, previous to the delivery of the deed, produce proof of such liens, and duplicate receipts of the payment thereof.

Sixth. The purchaser of said premises, or any portion thereof, will immediately after the sale, sign a memorandum of his purchase, and pay, in addition to the purchase-money, the auctioneer's fee of twenty-five dollars for each lot sold.

Seventh. The biddings will be kept open after the property is struck down, and in case any purchaser shall fail to comply with any of the above conditions of sale the premises so struck down to him will be again put up for sale under the direction of the said receiver, on the said terms of sale; and such purchaser will be held liable for any deficiency there may be between the sum for which said premises shall be struck down upon the sale, and that for which they may be purchased on the resale, and also for any costs or expenses occurring on such resale.

WM. J. BEST,
Receiver, etc.

MEMORANDUM OF SALE.

Have this day of , 1877, purchased of William J. Best, receiver, the property hereinbefore described for the sum of \$; and hereby, in consideration of the premises, and of one dollar to me in hand paid, promise and agree to comply with the terms and conditions of the sale of said premises, as above mentioned and set forth.

Received March , 1877, from , the sum of dollars, being ten per cent of the amount of this bid upon the property purchased by him, pursuant to the foregoing terms of sale, and also twenty-five dollars auctioneer's fee.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court, made in the above-entitled action, and entered in Albany county clerk's office on the 25th day of September, A. D., 1876, and on the 7th day of March, A. D., 1877, the undersigned, receiver of the Mechanics and Traders' Savings Institution, will expose for sale, at public auction, by John F. James, auctioneer, at No. 379 Fulton street, in the city of Brooklyn, city salesrooms, in the county of Kings, on Friday, the 23d day of March, A. M., 1877, at twelve o'clock, noon, of the said day, the following described parcels of land and premises, viz :

PARCEL No. 3.

All that lot of land in the city of Brooklyn, bounded as follows: Beginning at the south-easterly corner of President and Van Brunt streets, and running thence southerly on the easterly line of Van Brunt street eighty feet; thence easterly and parallel with President street twenty-three feet; thence northerly and parallel to Van Brunt street eighty feet to the southerly line of President street, and thence westerly along the southerly side of President street twenty-three feet to the place of beginning.

PARCEL No. 4.

All that certain lot of land in the sixth ward of the city of Brooklyn bounded and described as follows: Beginning at a point in the southerly side of President street, distance twenty-three feet easterly from the corner formed by the intersection of the easterly side of Van Brunt street with the southerly side of President street; running thence southerly and parallel with Van Brunt street eighty feet; thence westerly and parallel with President street twenty-three feet to the easterly line of Van Brunt street; thence southerly along said easterly line of Van Brunt street twenty feet; thence easterly and again parallel with President street forty-five feet; thence northerly and again parallel with Van Brunt street 100 feet to the line of President street, and thence westerly along said southerly line of President street twenty-two feet, to the place of beginning.

PARCEL No. 5.

All that certain lot, piece or parcel of land situate, lying and being in the twentieth ward of the city of Brooklyn, and bounded and described as follows: Beginning at a point on the northerly side of Atlan-

tic avenue distant twenty feet easterly from the northeasterly corner of Atlantic avenue and Hamilton street; running thence northerly at right angles to Atlantic avenue forty feet; thence more northerly and parallel with Hamilton street eighteen feet six inches; thence easterly at right angles to Hamilton street eighteen feet two and a half inches; thence southerly and again parallel with Hamilton street twenty-six feet seven and three-quarter inches; thence more southerly and again at right angles to Atlantic avenue forty feet to the northerly side of Atlantic avenue; thence westerly along the northerly side of Atlantic avenue twenty feet to the point or place of beginning. The northerly and southerly courses upon the said premises on each side thereof run through party walls.

PARCEL No. 6.

All that certain parcel of land in the ninth ward of the city of Brooklyn, bounded and described as follows: Beginning at the south-east corner of Hudson avenue and Baltic street, and running easterly along Baltic street one hundred and twenty feet; thence southerly and parallel with Hudson avenue, one hundred and thirty-five feet and eight inches, to the line of Remsen farm; thence south-westerly along said farm line sixty-eight feet and eleven inches; thence westerly, parallel with Baltic street, fifty-four feet and five inches, to Hudson avenue; thence northerly along Hudson avenue one hundred and fifty-six feet and nine inches, to the place of beginning.

The sale of the said premises will be made for cash, and subject to the approval of the Supreme Court.

WILLIAM J. BEST,

Receiver of the Mechanics and Traders' Savings Institution.

FREDERICK SMYTH,

Attorney for Receiver, 21 Nassau street, N. Y.

Dated NEW YORK, March 8, 1877.

STATE OF NEW YORK, }
CITY OF BROOKLYN. } ss.:

George Woodruff, of the city of Brooklyn, in the county of Kings, being duly sworn, says he is a foreman in the office of the Brooklyn Daily Union and Argus, a daily newspaper printed and published in the city of Brooklyn, county of Kings, aforesaid, and that the notice, of which the annexed is a true copy, has been published in said newspaper twelve days successively, commencing on the 10th day of March, 1877.

GEO. WOODRUFF.

Sworn to this 23d day of March, }
1877, before me, }

EDWARD FUNCH,

Commissioner of Deeds.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court, made in the above-entitled action, and entered in Albany county clerk's office on the 25th day September, A. D. 1876, and the 7th day of March, A. D. 1877, the undersigned, receiver of the Mechanics and Traders' Savings Institution, will expose for sale at public auction, by John F. James, auctioneer, at number 379 Fulton street, in the city of Brooklyn (city salesrooms), county of Kings, on Friday, the 23d day of March, A. D. 1877, at 12 o'clock, noon, of said day, the following described parcels of land and premises, viz.:

PARCEL No. 3.

All that lot of land in the city of Brooklyn bounded as follows: Beginning at the south-easterly corner of President and Van Brunt streets, and running thence southerly, on the easterly line of Van Brunt street, eighty feet; thence easterly, and parallel with President street, twenty-three feet; thence northerly, and parallel to Van Brunt street, eighty feet, to the southerly line of President street twenty-three feet, to the place of beginning.

PARCEL No. 4.

All that certain lot of land in the sixth ward of the city of Brooklyn, bounded and described as follows: Beginning at a point on the southerly side of President street, distant twenty-three feet easterly from the corner formed by the intersection of the easterly side of Van Brunt street with the southerly side of President street; running thence southerly and parallel with Van Brunt, eighty feet, thence westerly and parallel with President street twenty-three feet, to the easterly line of Van Brunt street; thence southerly along said easterly line of Van Brunt street twenty feet; thence easterly and again parallel with President street forty-five feet; thence northerly and again parallel with Van Brunt street, one hundred feet, to the southerly line of President street, and thence westerly along said southerly line of President street twenty-two feet, to the place of beginning.

PARCEL No. 5.

All that certain lot of land situate, lying and being in the twentieth ward of the city of Brooklyn, and bounded and described as follows: Beginning at a point on the northerly side of Atlantic

avenue, distant twenty feet easterly from the north-easterly corner of Atlantic avenue and Hamilton street; running thence northerly at right angles to Atlantic avenue, forty feet, thence more northerly and parallel with Hamilton street, eighteen feet, six inches; thence easterly, at right angles to Hamilton street, eighteen feet two and one-half inches; thence southerly and again parallel with Hamilton street, twenty-six feet seven and three-quarters inches; thence more southerly and again at right angles, to Atlantic avenue, forty feet to the northerly side of Atlantic avenue; thence westerly along the northerly side of Atlantic avenue twenty feet, to the point or place of beginning. The northerly and southerly courses upon the said premises on each side thereof, run through party walls.

PARCEL No. 6.

All that certain parcel of land in the ninth ward of the city of Brooklyn; bounded and described as follows: Beginning at the south-east corner of Hudson avenue and Baltic street, and running easterly along Baltic street one hundred and thirty-five feet and eight inches to the line of Remsen farm; thence south-westerly along said farm line sixty-eight feet and eleven inches; thence westerly parallel with Baltic street fifty-four feet and five inches to Hudson avenue, one hundred and fifty-six feet and nine inches to the place of beginning.

The sale of the said premises will be made for cash, and subject to the approval of the Supreme court.

WILLIAM J. BEST,

Receiver of the Mechanics and Trader's Savings Institution.

FREDERICK SMYTH,

Attorney for Receiver, 21 Nassau street, New York.

Dated NEW YORK, March 8, 1877.

STATE OF NEW YORK, }
CITY OF BROOKLYN, } ss.:

William H. Sutton of the city of Brooklyn, in the county of Kings, being duly sworn, says that he is a foreman in the office of the Brooklyn Daily Eagle, a daily newspaper published in the city of Brooklyn, in the county of Kings aforesaid, and that the notice of which the annexed is a true copy, has been published in said newspaper for twelve days, successively, commencing on the 10th day of March, 1877.

WM. H. SUTTON.

Sworn to and subscribed to, this 23d }
day of March, 1877, before me. }

J. LA FUIVELL,

Notary Public, Kings County.

NEW YORK SUPREME COURT.

THE PEOPLE, ETC., *against* THE MECHANICS AND TRADERS' SAVINGS
INSTITUTION.

The premises described in the annexed advertisement of sale, will be sold by and under the direction of William J. Best, receiver of said defendant, upon and subject o that following terms.

WM. J. BEST.

Receiver.

Dated *March 23, 1877.*

1. The said premises will be sold, pursuant to the orders made in the above-entitled action, mentioned in said advertisement, and also subject to the approval of the Supreme Court.

2. Ten per cent of the purchase-money of said premises will be required to be paid to the receiver at the time and place of sale, for which his receipt will be given.

3. The residue of said purchase-money will be required to be paid to said receiver, at the office of F. Smyth, No. 21 Nassau street, in city of New York, on the 12th day of April, 1877, at 12 m. of said day, when and where the receiver's deed will be ready for delivery.

4. The receiver is not required to send any notice to the purchaser, and if the purchaser neglects to call at the time and place above specified to receive his deed, he will be charged with interest thereafter on the whole amount of his purchase, unless the receiver shall deem it proper to extend the time for the completion of said purchase.

5. All taxes, assessments and other incumbrances upon said premises will be allowed out of the purchase-money, provided the purchaser shall, previous to the delivery of the deed, produce proofs of such liens and duplicate receipts of the payment thereof.

6. The purchase of said premises, or any portion thereof, will, immediately after the sale and at the place of sale, sign a memorandum of his purchase, and pay, in addition to the purchase-money, the auctioneer's fee of twenty-five dollars for each lot sold.

7. The bidding will be kept open after the property is struck down, and in case any purchaser shall fail to comply with any of the above conditions of sale, the premises so struck down to him will be again put up for sale under direction of the said receiver, on the same terms of sale; and such purchaser will be held liable for any deficiency there may be between the sum for which said premises shall be struck down upon the sale and that for which they may be purchased on the resale, and also for any costs or expenses occurring on such resale.

WM. J. BEST,

Receiver, etc.

MEMORANDUM OF SALE.

have this day of , 1877, purchased of Wm. J. Best, receiver, the property hereinbefore described, for the sum of , and hereby, in consideration of the premises, and of one dollar to me in hand paid, promise and agree to comply with the terms and conditions of the sale of said premises, as above mentioned and set forth.

Received March , 1877, from the sum of \$ being ten per cent. of the amount of his bid upon the property purchased by him pursuant to the foregoing terms of sale, and also twenty-five dollars auctioneer's fees.

Receiver, etc.

SCHEDULE.

PROPERTY SITUATE IN THE CITY OF NEW YORK.

NEW YORK SUPREME COURT.

THE PEOPLE OF STATE OF NEW YORK *against* THE MECHANICS AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court, made in the above-entitled action, and entered in Albany county clerk's office on the 25th day of September, A. D. 1877, and 7th day of March, A. D. 1877, the undersigned, receiver of "The Mechanics and Trader's Savings Institution," will expose for sale at public auction, by William Kennelly, auctioneer, at the Exchange salesroom No. 111 Broadway, in the city and county of New York, on Thursday, the 22d day of March, A. D. 1877, at 12 o'clock, noon, of said day, the following described parcels of land and premises, viz.:

PARCEL No. 1.

All that certain lot, piece or parcel of land situate, lying and being on the easterly side of the Bowery, between Houston and First streets, in the city of New York, more particularly bounded and described as follows, to wit: Commencing at a point on the easterly side of the Bowery, which is distant twenty-three feet northerly from the north-easterly corner of the Bowery and Houston street, and running thence easterly along the northerly line of the lot of land designated on a map made by the commissioners in partition (now on file in the reg-

ister's office of the city and county of New York, and numbered [636] six hundred and thirty-six) by the number (1) one, being on a line parallel with Houston street, seventy feet one inch to the westerly line of the lot of land designated on said map as number (7) seven, being a line parallel with the Bowery, twenty-seven feet two inches; thence westerly along the southerly side of the lot of land designated on said map as lot number (3) three, being a line parallel with Houston street, or nearly so, seventy feet one inch, to the easterly side of the Bowery; and thence southerly along the easterly side of the Bowery, twenty-six feet two inches to the place of beginning, said lot being known and distinguished on said map as lot number (2) two, and being also known as street number (283) two hundred and eighty-three Bowery.

PARCEL NO. 2.

All that certain lot of land in the nineteenth ward of the city of New York, bounded and described as follows: Beginning at a point on the northerly side of Forty-fifth street, distant three hundred and twenty-five feet westerly from the north-westerly corner of Forty-fifth street and Second avenue, and running thence westerly along said northerly side of Forty-fifth street twenty-five feet; thence northerly and parallel with Second avenue one hundred feet and five inches to the center line of the block between Forty-fifth and Forty-sixth streets; thence easterly along said center line of the block and parallel with Forty-fifth street, twenty-five feet; and thence southerly the center of a party wall, one hundred feet five inches to the northerly side of Forty-fifth street to the point or place of beginning.

The sale of the said premises will be made for cash, and subject to the approval of the Supreme Court.

Dated NEW YORK, *March 8, 1877.*

WM. J. BEST,

Receiver of the Mechanics and Traders' Savings Institution.

FRED'K SMYTH,

Attorney for Receiver, 21 Nassau street, N. Y.

PROPERTY SITUATED IN THE CITY OF BROOKLYN.

NEW YORK SUPREME COURT.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS
AND TRADERS' SAVINGS INSTITUTION.

Receiver's Sale.

In pursuance of orders of the Supreme Court made in the above-entitled action, and entered in Albany county clerk's office on the 27th

day of September, A. D. 1877, the undersigned receiver of the Mechanics and Traders' Savings Institution will expose for sale at public auction, by John F. James, auctioneer, at No. 379 Fulton street, in the city of Brooklyn, city salesrooms, in the county of Kings, on Friday, the 23d day of March, A. D. 1877, at twelve o'clock, noon, of the said day, the following described parcels of land and premises, viz.:

PARCEL NO. 3.

All that lot of land in the city of Brooklyn bounded as follows Beginning at the south-easterly corner of President and Van Brunt streets, and running thence southerly on the easterly line of Van Brunt street eighty feet; thence easterly and parallel with President street twenty-three feet; thence northerly and parallel to Van Brunt street, and thence westerly along the southerly side of President street twenty-three feet to the place of beginning.

PARCEL NO. 4.

All that certain lot of land in the sixth ward of the city of Brooklyn: bounded, described as follows: Beginning at a point on the southerly side of President street, distant twenty-three feet easterly from the corner formed by the intersection of the easterly side of Van Brunt street with the southerly side of President street, running thence southerly and parallel with President street twenty-three feet to the easterly line of Van Brunt street twenty feet; thence easterly and again parallel with President street forty-five feet; thence northerly and again parallel with Van Brunt street one hundred feet to the southerly line of President street, and thence westerly along said southerly line of President street twenty-two feet to the place of beginning.

PARCEL NO. 5.

All that certain lot, piece or parcel of land situate, lying, and being in the twentieth ward of the city of Brooklyn, and bounded and described as follows: Beginning at a point on the northerly side of Atlantic avenue, distance twenty feet easterly from the north-easterly corner of Atlantic avenue and Hamilton street, running thence northerly at right angles to Atlantic avenue forty feet; thence more northerly and parallel with Hamilton street eighteen feet six inches; thence easterly at right angles to Hamilton street eighteen feet two and one-half inches; thence southerly and again parallel with Hamilton street twenty-six feet seven and three-quarter inches; thence more southerly and again at right angles to Atlantic avenue forty feet to the northerly side of Atlantic avenue; thence westerly along the northerly side of Atlantic avenue twenty feet to the point or place of beginning.

The northerly and southerly courses upon the said premises on each side thereof run through party walls.

PARCEL No. 6.

All that certain parcel of land in the ninth ward of the city of Brooklyn, bounded and described as follows: Beginning at the south-east corner of Hudson avenue and Baltic street, and running easterly along Baltic street one hundred and twenty feet; thence southerly and parallel with Hudson avenue one hundred and thirty-five feet and eight inches to the line of Remsen farm; thence south-westerly along said farm line sixty-eight feet and eleven inches; thence westerly parallel with Baltic street fifty-four feet and five inches to Hudson avenue; thence northerly along Hudson avenue one hundred and fifty-six feet and nine inches to the place of beginning.

The sale of said premises will be made for cash, and subject to the approval of the Supreme Court.

WM. J. BEST,

Receiver of the Mechanics and Traders' Savings Institution.

FRED'K SMYTH,

Attorney for Receiver, 21 Nassau street, N. Y.

Dated NEW YORK, *March 8, 1877.*

At a Special Term of the Supreme Court of the State of New York held in the chamber of said court in the County Court-House, in the city of New York, on the 11th day of April, A. D. 1877.

Present — Hon. CHAS. DONOHUE, *Justice.*

THE PEOPLE OF THE STATE OF NEW YORK *against* THE MECHANICS AND TRADERS' SAVINGS INSTITUTION.

On reading and filing the report of sale of William J. Best, the receiver in the action, and the affidavits and papers thereto annexed, and notice of the presentation of said report, with admission of service of a copy thereof, and of said notice, upon the Attorney-General of the State of New York, and a consent in writing, signed by the Attorney-General, that the said report, and the application for its confirmation, might be made at a Special Term of this court to be held in the city of New York; and, after hearing, Mr. F. Smyth, of counsel for the receiver, Messrs. Hams & Parsons, of counsel for H. D. Finn, the purchaser of the premises designated as parcel No. 1, in the schedule annexed to said report, Messrs. Johnson & Cantine, of counsel

for Arras G. Williams, the purchaser of the premises designated by the numbers 30 and 32 President street on the poster or hand-bill annexed to said report, and being a part of parcel No. 4 in the schedule referred to in said report, and George V. Brower, the purchaser of the premises designated by the numbers 1424, 1422, 1420, 1418, 1416, 1414 on said hand-bill or poster annexed to said report, and being also the premises, designated as parcel No. 6, in the schedule annexed to said report; and on reading and filing the affidavits of James M. Jackson, Arras G. Williams, William Cole, Isaac F. Bissell, Paul C. Greening, Christopher C. Watson, George V. Elkins, Benjamin T. Lynch, Benjamin Lewis, Thomas C. Moore, George V. Brower, Christopher C. Watson, all of which said affidavits were read on the part of the purchasers above named, it is ordered that the sale of the premises situated in the city of New York, designated upon said schedule as parcel No. 1, to the said H. D. Finn, and of the premises designated upon said schedule as parcel No. 2, purchased by Frederick McReadey, and of the premises situated in the city of Brooklyn, Kings county, purchased at said sale by T. G. Mathews, and designated upon said poster or hand-bill as No. 851 Atlantic avenue, and as parcel No. 5 on the said schedule and of the premises, purchased at said sale by the said George V. Brower, and designated by the numbers 1424, 1422, 1420, 1418, 1416 and 1414 on said poster or hand-bill, and as parcel No. 6 upon said schedule, be and the same hereby is, in all things approved, ratified and confirmed, and the said receiver is hereby authorized and directed, upon the said purchasers complying with the requirements of the orders of this court heretofore made herein, upon the 23d day of September, 1876, and the 6th day of March, A. D. 1877, and entered respectively in the clerk's office of the county of Albany, on the 25th day of September, A. D. 1876, and the 7th day of March, A. D. 1877, to execute and deliver to each of the said purchasers a deed, conveying to them respectively, all his the said receiver's right, title and interest of, in and to the several parcels of land and premises so purchased by them, and the sale of which is hereby approved, ratified and confirmed; and it is further ordered, that the sale of the premises designated on the said hand-bills or poster, by the number (30) thirty and (32) thirty-two, President street, in the said city of Brooklyn, and being a part of the premises designated as parcel number (4) upon said schedule, and which two parcels were purchased at said sale by Arras G. Williams, be, and the same is hereby not approved, ratified or confirmed.

And it is further ordered, that the sale of the premises designated on the said hand-bill or poster, by the number (3) three, being a two-story stable and the lot upon which the same is erected, fronting on

President street, and being also a part of the premises designated upon said schedule as parcel No. 4, and which was purchased at said sale by Everett Newton, be, and the same is hereby not approved, ratified or confirmed.

And it is further ordered, that said Arras G. Williams and Everett Newton the said purchasers, of the said last-mentioned premises, and the said receiver be, and they and each of them is hereby relieved from the performance by them, or either of them of the terms of the sale signed by them respectively and from all liability thereunder, and the said receiver is hereby ordered and directed to refund to the said Arras G. Williams and Everett Newton the several sums of money paid by them to him pursuant to the said terms of sale, and also the fees of the auctioneer by whom said sale was made, and which fees were paid by the said purchasers pursuant to the said terms of sale. And it is further ordered that the said receiver proceed to resell the said last-mentioned premises in the manner and subject to the directions contained in the said orders of this court made herein on the said 23d day of September, A. D. 1876, and the 6th day of March, A. D. 1877, and heretofore referred to.

The clerk of Albany county will enter.

CHARLES DONOHUE.
W.

Mr. McGUIRE — We object, as before.

Senator KENNADAY — I feel, Mr. President, somewhat as though I would like to hear a little more fully the reasons for the propriety of the admission as evidence of the report which was offered a short time since, and which the Senate voted to exclude.

The PRESIDENT — The proper motion would be to reconsider.

Senator KENNADAY — I was about making that motion, Mr. President, and I make the motion with this object: That if the counsel for the State would like to state more fully the reasons for the admission of that evidence, I should be glad to hear them, and I should say, at the same time, that it strikes me rather as an impropriety to exclude a report as evidence, although there may be portions of that paper which would not strictly come under the denomination of evidence. The comments made by the party making the report, for instance. It seems to me the report itself is competent evidence, and I make the motion to reconsider the motion upon which it was excluded.

Senator GERARD — Mr. President, I understood that the evidence taken on the original motion was whether the report should be taken in evidence as an entirety, with all these comments. Now, it struck me that, as against the respondent, he not being a party to the record,

and the report being accepted as far as he is concerned, that that was going far enough. We are admitting here, in another controversy, a report or judgment in which the respondent has no part or share. We are admitting it as a judicial pronouncement upon certain facts in it. It might be, in an investigation of this character, in one of strict legal technicality, that there would be propriety in taking a report of that character as presumptive evidence of what is contained in it. It struck me then, as it now strikes me, that the comments of this receiver (a person not in privity with the accused here, but *ex post facto*, as it were, and not in connection with the matter before this tribunal) were not proper evidence. Therefore, the question as put and passed upon, that this report, as an entirety, should not be admitted, and, as I understood it, might be admitted without those comments, and I suppose that under the decision arrived at by the Senate the report can be put in so far as it is evidence, and so far that it is not evidence that it should be excluded. That is, partially in evidence and part not. That, I understood, was the ruling of the Senate, as the question was put by the chair.

Mr. TRACY — May I be allowed to say a word, Mr. President? I am not at all tenacious about what disposition the Senate is to make of this matter. The paper is the report of the receiver, made shortly after appointment, in which he attempts to give a complete inventory of the property that has come to his hands. In one place he mentions certain bonds and inventories, but as they have not come to his hands, he states that he cannot have them in his hands, because they are held under a pledge, and he mentions the pledgee, and gives the most perfect report he can about them. In another place he puts in various property at an amount set opposite, and states that he does not attempt to say those are the true values, for he has not had time to determine what the true values were, but he has simply taken them from the books. Those are as much a part of the report as the man's signature, in my humble judgment. He could not make an honest inventory without touching those Rochester city bonds and those bonds in some way or other; and the only way he could do it was to say, "there are so many bonds, and I could not touch them now because they are held under lien, and as to the other articles, where the value is the point, I have gone to the books for the value, for I am not able to fix the exact value." It is undoubtedly true as to the remark made by Senator Gerard, that such a report was made by the receiver. It don't prove that the report is true, but the receiver has sworn upon the stand that he has made a report, and that it took some time to make the investigation, and if it is necessary to add any thing to the affidavit he made as a public officer, we can recall him. The

general presumption is that the public officer has done his duty in making a report. It is competent, in my judgment, to put this report in evidence.

The PRESIDENT — The question is on the motion of the Senator from the Second [Mr. Kennaday] to reconsider the vote.

Senator HARRIS — Mr. President, I hope that that vote will not be reconsidered, for the reason that I fail to see that this is any evidence at all in this case. It is a report by a receiver simply, and whatever that report contains can only have in law a binding effect as against the receiver, and not as against any other person. The receiver himself has been called to the stand for the purpose of testifying as to what property he received and what its value was. There was no object of calling him if the report was evidence because the report states the property and its value and comments upon it. Now, it appears to me that whatever is stated in that report should not be taken as evidence, because the respondent in this case, has no means of cross-examining the report. When the witness is produced upon the stand he has such opportunity and can test the value of the receiver's opinion, but whatever opinion may be expressed in the report he cannot, because that must be taken as it stands. Of course if either counsel wishes to prove any thing, he may prove it by the receiver, and the opposite counsel may cross-examine the receiver ; but this report should not be taken as evidence against any person excepting the receiver. It is evidence against him, of course, in the courts, but evidence against no one else, because this is an *ex parte* statement and that is all there is of it. It does not obtain any binding force by being filed as a report as against any other person ; and whatever he may choose to say, even to delivering an essay in regard to this very bank, would not be taken here against Mr. Ellis. By no means. Now, he makes certain comments in this report upon the values of this property, and upon the situation of the property. Is that to be taken as evidence ? It ought not to be, because he may be wholly wrong in his suppositions in regard to the property, and nothing but an oral examination upon the stand would show that he was wrong. Therefore, I think the ruling of the Senate was correct, and should be adhered to.

Mr. TRACY — Mr. President, allow me to say that the counsel for the State do not wish to press for the admission of any evidence which is thought by any considerable number of the Senators to be improper ; we therefore withdraw the report.

Senator KENNADAY — Mr. President, I move that we take a recess until four o'clock. Lost.

Senator KENNADAY — It seems to me that when we meet at ten

o'clock, and sit until one, it is time to take a recess, when our regular hours are from 11 until 2 o'clock. The counsel for the State had a right to assume that we would not occupy more than three hours. I doubt whether they are prepared to go on any further, and I hope some gentlemen will now move to take a recess until 4 o'clock.

Senator COLE — I move we take a recess until 4 o'clock.

Senator MCCARTHY — I would like to say a few words, Mr. President. My reason for voting "no" upon the matter of adjournment was, that the counsel for both sides should understand that as one of the Senators I am "ready for business," and to go on with this trial as speedily as possible.

Senator HARRIS raised the point of order that the motion to adjourn was out of order, there having been no new business transacted.

The Chair decided the point well taken.

Mr. TRACY — We are ready to proceed. We will proceed with the Abingdon Square Savings Bank.

Mr. OLNSTEAD — The testimony is upon page 299, and extends to page 310.

Senator KENNADAY — I move we take a recess until 4 o'clock.

Motion carried, and the Senate thereupon took a recess until 4 o'clock P. M. July 31. 1877.

The Senate reconvened at 4 o'clock. A quorum present.

Mr. TRACY asked for a short delay, until Mr. Best should arrive.

Mr. CHAPMAN — I would like to ask the court if the journal does not show that the evidence in the Mechanics and Traders' case was closed and another case taken up.

The Clerk read from the journal that it did so state.

Mr. TRACY — We will go on with the Abingdon Square Savings Bank case, and when Mr. Best comes in we will call him upon the Mechanics and Traders' Savings Bank case. It would be more convenient to have the whole evidence put in, in gross in each case. It is not like a case at the circuit where the evidence is absolutely closed upon the one side or the other.

William J. Best, being recalled on behalf of the State, testified as follows:

By Mr. TRACY:

Q. Mr. Best, of those southern securities of the Mechanics and Traders' Bank and Savings Institution, were any of those sold before you became receiver? A. Yes, sir.

Q. When, sir, and what? A. There were \$4,000 of North Carolina bonds issued to the North Carolina railway sold in April, 1876.

Q. At what price? A. Sixty and three-quarters; of the Tennessee bonds there were sold in May or June, 1876, \$110,000, at an average of forty-three and five-eighths; these were the only sales.

By Mr. MCGUIRE:

Q. How is that? has the price of Tennessees advanced since that time? A. The price has been both higher and lower; it was at one time considerably above that, and now it is about the same; it may be a trifle under now.

Q. How much above did they do? A. I think they have been as high as fifty-five or fifty-seven since then, and as low as forty; I am not aware of there being any greater change.

Q. Quite a fluctuation? A. Oh, yes; a great fluctuation; according to the prospects of the settlement of the debt; rise and fall.

Mr. OLMSTEAD — The next case in which we offer evidence is the Abingdon Square Savings Bank of the city of New York.

Mr. CHAPMAN — Then is the case closed in the Mechanics and Traders' case?

Mr. TRACY — No, sir; not yet.

Mr. OLMSTEAD — The evidence given before the committee is in the printed book from pages 299 to 310.

Henry L. Lamb, being recalled on behalf of the State testified at follows:

By Mr. OLMSTEAD:

Q. Have you the reports with you in regard to the Abingdon Square Savings Bank? A. Yes, sir [producing same].

Q. Will you please produce an examination by Reid and Aldrich, on December 1 and 2, 1873? A. That is it [producing same].

Mr. OLMSTEAD read the same as follows:

BANK DEPARTMENT, }
ALBANY, *November 26, 1873.* }

Pursuant to the authority conferred and the duty imposed upon the Superintendent of the Banking Department, by chapter 693 of the Laws of 1871, I do hereby appoint Messrs. George W. Reid and William F. Aldrich to examine into the condition, working and affairs generally of the Abingdon Square Savings Bank New York, and report thereon to me in detail as soon as practicable.

Given under my hand and official seal at Albany the day
[SEAL.] and year first above written.

. D. C. ELLIS,
Superintendent.

Hon. D. C. ELLIS, *Sup't Banking Department* :

SIR.—The undersigned, appointed to examine into the conditions, working, etc., of the Abingdon Square Savings Bank of New York, report, since the last report the business has not increased enough to pay expenses, and in consequence the trustees have paid in more than \$20,000 to meet deficiencies to continue to do so. A call has been made on the stockholders of the Eighth National Bank, and it is supposed the balance due from that bank will soon be paid.

The deposit in the Loaner's Bank not being strictly within the law in reference to deposits, will be placed with them as a call loan with collaterals.

The condition and general working will be seen from the annexed schedules.

Respectfully submitted,

GEO. W. REID,

W. F. ALDRICH.

Examined December first and second.

ABINGDON SQUARE — DECEMBER FIRST AND SECOND.

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	....	.....	\$92,780 00
U. S. 5-20, 1864.....	6	\$5,000 00	111	\$5,550 00	
U. S. 5-20, new, 1865.....	6	4,000 00	114 $\frac{1}{4}$	4,570 00	
U. S. 5-20, old, 1865....	6	9,500 00	115	10,925 00	
•					
Safe and fixtures .....	....	.....	....	.....	21,045 00
Revenue stamps.....	....	.....	....	.....	4,240 17
Cash in safe.....	....	.....	....	.....	150 00
Cash in Eighth National Bank.....	....	.....	....	\$1,837 35	
Cash in Ninth Ward Bank.....	....	.....	....	3,762 51	
Cash in Loaner's Bank.....	....	.....	....	1,000 00	
				32,616 45	
Interest accrued.....	....	.....	....	.....	39,216 31
Deficiency of assets.....	....	.....	....	.....	4,717 00
				.....	1,567 23
Due.....	....	.....	....	.....	\$163,635 71
One thousand and eighty depositors .....	....	.....	....	\$160,295 71	
Interest accrued.....	....	.....	....	3,340 00	
INCOME.					
Bonds and mortgages.....	....	92,700 00	7	\$6,489 00	163,635 71
U. S. gold .....	....	18,500 00	6	1,110 00	
Premium on do.....	....	1,110 00	165	55 50	

ABINGDON SQUARE—DECEMBER FIRST AND SECOND.

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Cash in bank.....	\$37,380 00	6	\$2,242 80	\$9,897 30
Deficiency of income.....	1,802 70
CHARGES.					
Interest to depositors.....	\$8,100 00	\$11,700 00
Salaries.....	1,500 00	
Rent.....	800 00	
Internal revenue tax.....	60 00	
All other charges.....	1,240 00	11,700 00

EXAMINATION BLANK, No. 4.

Sundry items of assets, the liabilities, also other statistics of the Abingdon Savings Bank, as found upon examination made December 1 and 2, 1873.

Real estate owned, none; location; dimensions of ground; dimensions of building; cost of ground; cost of building; estimated market value of real estate. Amount of cash on hand, \$39,216.31; in vault, \$1,837.35 (to be verified by examiner's count); in banks or trust companies, viz.: (to be verified by certificates of bank officers), Loaner's bank, \$32,616.45; Ninth Ward bank, \$1,000; Eighth National bank, \$3,762.51.

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz. :

On bonds and mortgages, \$3,923; on stocks, none; on call loans, none; on deposits in bank, \$794; what amount of the above is more than three months over due, \$1,894; rents due and collectible or accrued to date, none.

Any other properties constituting assets, viz. :

Safe and fixtures, \$4,240.17; revenue stamps, \$150; annual rental of real estate owned or leased, at current rates, none; rates of interest on call loans, none made; rate of interest on deposits in bank, etc. : Loaner's, six per cent; Eighth National, seven per cent; Ninth Ward, four per cent.

Interest credited July 1, 1872, \$3,427.08; deposits, less interest, that date, \$140,995.31; interest credited January 1, 1873, \$4,218.18; deposits, less interest, that date \$154,144.59; interest credited July 1, 1873, \$3,966.14; deposits, less interest, that date, \$163,367.37; amount due depositors this date, \$160,295.71; estimate of interest accrued to depositors this date, \$3,340; any other debts or liabilities due or accrued this date, not included above, viz. : none.

Miscellaneous facts relating to the condition and conduct of business of the Abingdon Savings Bank, in the city of New York, as found upon examination made by direction of the Superintendent of the Bank Department December 1 and 2, 1873.

ORGANIZATION.

Charter number of trustees? Twenty-one.

Number of vacancies? Two.

Number constituting quorum? Eight.

Officers elected or appointed from trustees? President, two vice-presidents and secretary.

Officers, clerks and other employees, not members of the board? Clerk.

Standing or regular committees of the board, their powers and duties? Finance committee to examine all applications for loans, etc.; examining committee to examine books and securities, etc.

EXPENDITURES.

Salaries, current rate, viz.: Secretary, \$1,000; clerk, \$500.

Other expenses, basis of 1872: Rent, \$800; internal revenue tax, \$60; furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank-books, fuel, lights and attendance, other expenses, \$1,240.

CONDUCT OF BUSINESS.

Regular meetings of the board? Second Thursday each month.

Average attendance, 1872? Eight or nine.

Attendance of officers during business hours? Secretary.

Attendance of trustees? One or two each day.

Application for loans on bond and mortgage, how made? Secretary.

To whom referred? Finance committee.

Report on value of property, by whom made? Surveyor.

To whom? Finance committee.

In what form? Writing.

Are applications for loans on bond and mortgage filed or otherwise preserved? Usually.

Ditto of reports concerning value of property? Usually.

Action by vote or otherwise, by whom necessary before money is advanced on bond and mortgage? Board.

Ditto of stock investments? Board.

Ditto of call loans? Board.

Ditto of deposits in bank? Board.

How or by whom are the companies designated in which insurance as security for loans on bond and mortgage is affected? Finance committee.

Is the opinion of your counsel ever taken concerning the legality of investments otherwise than on bond and mortgage? Yes.

Opinion in writing or oral? Oral.

At what period does interest on deposits commence? Date of deposit.

During what time must a deposit remain to be entitled to interest ?
To dividend day.

By what form of action is the rate fixed or declared ? Board in advance.

Is interest declared or fixed or promised in advance, or only at expiration of interest period ? In advance.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily ? Arbitrarily.

Who is the responsible officer in charge of the conduct of business during business hours ? Secretary.

Hours during which bank is open ? Daily from 9 to 4, and Monday and Saturday from 6 to 8 P. M.

Who receive and pay money over the counters ?

What memoranda of entries made by receiving teller of transactions ? Ticket and pass-book.

What ditto by paying teller ? Take a receipt and enter on pass-book.

Who revises and compares these with cash at close of business ? Secretary.

How often revised and checked or compared by any other officer or committee ? Examining committee every six month.

In whose custody, or accessible to whom, are the securities of the bank kept ? Secretary.

How often and by whom examined ? Every six months by examining committee.

How is their correctness verified ? Books.

At these examinations is the cash actually counted ? No.

How is amount of cash deposited in bank ascertained by them ? Certificate from banks.

Reports and statements of total cash received and disbursed made by whom ? Not made.

To whom ?

How often ?

In what form ?

How and by whom verified ?

Ditto of assets and liabilities ? Not made.

Bonds of officers, etc., viz. : Secretary, \$5,000 ; clerk, \$3,000.

In whose custody ? President.

Number of open accounts ? One thousand and eighty.

Largest single ? Six thousand dollars.

Number exceeding \$5,000 ? One.

Average ? One hundred and forty-eight dollars and forty-two cents.

Are depositors allowed to draw checks upon their accounts? A. No.

By whom must the checks of the institution be signed? President and secretary.

Has any officer or trustee, to your knowledge, or according to your belief, ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? No.

By Mr. TRACY :

Q. This is his mark —“examined December 1 and 2, 1873” — does that mean when that was filled? A. That is the date of the examination.

By Mr. OLMSTEAD :

Q. I call for the report of the bank made January 1, 1874? [Witness produced same.]

Mr. OLMSTEAD read the same as follows:

NEW YORK, December 27, 1873.

Hon. D. C. ELLIS, *Superintendent, etc.* :

DEAR SIR — The commission came to hand this morning.

The trustees of the “Abingdon Square Savings Bank” have signed an agreement to pay their deficiency of \$1,600.

The “Mutual Benefit” have improved the character of the securities held by them, but show a deficiency of over \$11,000.

Last December the *late* secretary of the “Central Park,” wishing to make a better show than the books would allow, persuaded the trustees to make deposits “in trust” to the amount of \$60,000, giving their checks for the amount, and raising the deposit account from about 80 to 139,000, and adding to their 59,000 bonds and mortgages the 8 or 10, amounting to 50,000, spread out in detail in the annual report. These entries were canceled soon afterwards.

On the 18th June the same thing was done for the July report, and the entries canceled on the 12th July.

The president does not appear to have thought for a moment that they were committing perjury, but says “the secretary devised the plan, but they concluded, a few days since, not to do so again.”

I will complete these reports in a few days and send them to you.

Yours, truly,

GEORGE W. REID.

Q. Mr. Lamb, were any letters received from Mr. Reid in respect to this bank about that time (January or February, 1874)? A. Only one letter, dated December 27, 1873.

Q. Then read what relates to this bank?

The witness read the same, and Mr. Olmstead put it in evidence, as follows:

SCHEDULE A — BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
.....	New York.....	New York.....	\$5,000 00	\$15,000 00	7 per cent.
.....	Westchester.....	Yonkers.....	3,000 00	12,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	10,000 00	25,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	4,300 00	17,000 00	7 per cent.
.....	New York.....	New York.....	3,000 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	1,500 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	2,900 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
.....	Kings.....	Brooklyn.....	8,000 00	25,000 00	7 per cent.
.....	New York.....	New York.....	4,000 00	18,000 00	7 per cent.
.....	Westchester.....	Yonkers.....	6,000 00	12,000 00	7 per cent.
.....	New York.....	New York.....	3,000 00	10,000 00	7 per cent.
.....	New York.....	New York.....	3,000 00	10,000 00	7 per cent.
			\$75,700 00	\$210,500 00	

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stocks or bonds of villages. 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
5-20 1864 U. S. bonds	6 coin.	\$5,750 00	\$5,000 00	\$5,750 00
5-20 1865 U. S. bonds, new	6 coin.	4,540 00	4,000 00	4,610 00
5-20 1865 U. S. bonds, old	6 coin.	10,782 50	9,500 00	10,925 00
		\$21,072 50	\$18,500 00	\$21,285 00

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	At what rate of interest.
Ninth Ward Bank.....	New York.....	\$13,762 51	4 per cent.
Loaners' Bank.....	New York.....	27,443 27	6 per cent.
		\$41,205 78	

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS.

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....	\$212 50
New York State stocks.....
Stocks of other States.....
Bonds of counties, cities and towns of this State.....
Other stocks and bonds.....
Real estate.....
Totals.....	\$212 50
Difference.....	*\$	\$212 50
Loans, deposits, investments or assets of every descrip- tion not heretofore enumerated, viz. : †		
Bank fixtures.....	\$4,252 72
Interest due and unpaid to January 1, 1874.....	3,471 83
Revenue stamps.....	150 00
		\$8,087 05

Report of the Abingdon Square Savings Bank, an incorporated institution for savings, of its condition the 1st day of January, 1874, made to the Superintendent of the Banking Department, as required by Chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed \$75,700 00
2. Stock investments, as per Schedule B, hereto annexed 21,072 50
3. Amount loaned on public stocks, as per Schedule C, hereto annexed

* If cost exceeds market value the difference should be entered under the head "Other Liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will, of course be just to include in this schedule the interest due, though unpaid, on investments.

4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed...
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....

6. Real estate, cost \$14,144.86 ; market value, \$16,- 000 ; standing on books at \$14,144.86.....	\$14,144 86
7. Cash on deposit in banks or trust companies as per Schedule F, hereto annexed.....	41,205 98
8. Cash on hand, not deposited in bank.....	11,069 00
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	8,087 05
	<hr/>
	\$171,279 19
	<hr/>

Liabilities.

1. Amount due depositors	\$168,223 11
Principal.....	\$163,985 07
Interest credited for the 1st of January, 1875.....	4,238 04
2. Other liabilities, viz.	
3. Excess of assets over liabilities	3,056 08
	<hr/>
	\$171,279 19
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of Jan- uary 1, 1875.....	1,107
2 Number of accounts opened during the year 1874..	464
3. Number of accounts closed during the year 1874..	321
4. Number of accounts opened since organization....	2,190
5. Amount deposited, not including interest credited, during 1874.....	\$206,304 35
6. Amount deposited, including interest credited, for the same period.....	214,508 53
7. Amount withdrawn during the year 1874.....	204,648 19
8. Amount of interest or profits earned,* during the year 1874.....	11,258 43
9. Amount of interest credited to depositors for the same period.....	8,204 18

*If amount received is reported, strike out "or earned;" if amount earned is reported strike out "received or."

10. Amount of each semi-annual credit of interest, for
the year 1874, and when credited: July 1, 1873,
\$3,966.14; January 1, 1874, \$4,238.04.
Credited at other periods during the year.
11. Rate per cent of dividends or interest to depositors
during the past year, six per cent.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

Charles A. Schumacker, president, and George W. Brown, secretary, of the Abingdon Square Savings Bank, an incorporated institution for savings, located and doing business at No. 23 Abingdon Square, in the city of New York, being duly and severally sworn, each for himself saith, that the foregoing report, and the schedules accompanying the same, are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of January, 1874, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

CHARLES A. SCHUMACKER,

President.

GEORGE W. BROWN,

Secretary.

Severally subscribed and sworn by }
both deponents, the 23d day of }
January, 1874, before me.

[L. S.]

DANIEL T. BROWN,

Notary Public, N. Y. Co.

Q. Will you produce the report of July 1, 1874? A. Yes, sir.
[Producing the same.]

By Mr. TRACY:

Q. There is no letter in the meantime; no intermediate letter? A. No, sir.

Mr. OLMSTEAD read the same, as follows:

SCHEDULE A — BONDS AND MORTGAGES.

No.	County where located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
....	New York.....	New York.....	\$5,000 00	\$15,000 00	7 per cent.
....	Westchester.....	Yonkers.....	3,000 00	12,000 00	7 per cent.
....	Kings.....	Brooklyn.....	5,000 00	25,000 00	7 per cent.
....	Kings.....	Brooklyn.....	4,300 00	17,500 00	7 per cent.
....	New York.....	New York.....	3,000 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	1,500 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	2,900 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7 per cent.
....	Kings.....	Brooklyn.....	8,000 00	25,000 00	7 per cent.
....	Westchester.....	Yonkers.....	6,000 00	12,000 00	7 per cent.
....	New York.....	New York.....	3,000 00	10,000 00	7 per cent.
....	New York.....	New York.....	3,000 00	10,000 00	7 per cent.
			\$63,700 00	\$186,500 00	

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates; 2. New York State stocks; 3. Stocks of other States; 4. Stock or bonds of cities in this State; 5. Stocks or bonds of counties, 6. Stocks or bonds of towns; 7. Stocks or bonds of villages; 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
5-20 '64 U. S. bonds	6 coin.	\$5,700 00	5,000 00	5,782 50
5-20 '65 U. S. bonds, new	6 coin.	4,540 00	4,000 00	4,620 00
5-20 '65 U. S. bonds, old	6 coin.	10,782 50	9,500 00	\$11,115 00
		\$21,072 50	\$18,500 00	\$21,517 50

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST COMPANY.	Location.	Amount on deposit.	At what rate of interest.
Ninth Ward Bank	New York	\$10,454 18	4 per cent.
Loaners' Bank	New York	31,824 60	6 per cent.
		\$42,278 78	

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS:

	Excess of cost over market value.	Excess of mar- ket value over cost.
United States stocks.....	\$445 00
New York State stock.....
Stocks of other States.....
Bonds of counties, cities and towns of this State
Other stocks and bonds.....
Real estate.....	2,855 94
Totals.....	\$3,300 94
Difference.....	*\$	\$3,300 94
Loans, deposits, investments or assets of every descrip- tion not heretofore enumerated, viz. : †		
Bank fixtures.....	4,259 32
Interest due and unpaid.....	5,022 69
Revenue stamps.....	150 00
		<u>\$12,732 95</u>

Report of the Abingdon Square Savings Bank, an incorporated institution for savings, of its condition on the 1st day of July, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$63,706 00
2. Stock investments, as per Schedule B, hereto annexed.....	21,072 50
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	

* If cost exceeds market value the difference should be entered under the head, "Other Liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will of course be just to include in this schedule the interest due, though unpaid, on investments.

6. Real estate standing on books at \$14,144.86 ; market value \$17,000 ; cost, \$14,144.86	\$14,144 86
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed	42,278 78
8. Cash on hand not deposited in bank	19,461 05
9. Amount of assets not included under either of above heads, the particular items of which are set forth in Schedule G, hereto annexed	12,732 95
	<hr/> <hr/>
	\$173,390 14

LIABILITIES.

1. Amount due depositors	\$169,688 80
Principal	\$165,553 59
Interest credited for the 1st of July, 1873.	4,135 21
3. Other liabilities, viz. : Excess of assets over liabilities	3,701 34
	<hr/> <hr/>
	\$173,390 14

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss. :

Charles A. Schumacher, president, and George W. Brown, secretary, of the Abingdon Square Savings Bank, an incorporated institution for savings, located and doing business at No. 23 Abingdon Square, in the city of New York, being duly and severally sworn, each for himself saith, that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the first of July, one thousand eight hundred and seventy-four, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

CHARLES A. SCHUMACHER,

President.

GEORGE W. BROWN,

Secretary.

Severally subscribed and sworn by }
both deponents, the 24th day of }
July, 1874, before me.

[L. S.]

DANIEL T. BROWN,

Notary Public for New York City and County.

Mr. GERARD — What are those ?

Mr. OLMSTEAD — It is the semi-annual report of the bank, as of July 1, 1874.

Mr. GERARD — Showing a deficiency ?

Mr. OLMSTEAD — Showing a surplus of \$3,700.

By Mr. OLMSTEAD :

Q. Now, produce the report of the bank of January 1, 1875 ?

The witness produced the same, which was read by Mr. Olmstead, as follows :

SCHEDULE A.
BONDS AND MORTGAGES.

No.	Co. where located.	In what city, village or town.	Principal unpaid.	Est'd value of mortgaged premises.	Rate of interest.
..	New York.....	New York....	\$5,000	\$15,000	7 per ct.
..	Westchester ..	Yonkers.....	3,000	18,000	7 per ct.
..	Kings.....	Brooklyn....	10,000	25,000	7 per ct.
..	Kings.....	Brooklyn....	4,300	17,000	7 per ct.
..	New York....	New York....	3,000	7,000	7 per ct.
..	Kings.....	Brooklyn....	1,500	6,000	7 per ct.
..	Kings... ..	Brooklyn....	2,900	6,000	7 per ct.
..	Kings.....	Brooklyn....	2,500	6,000	7 per ct.
..	Kings.....	Brooklyn....	3,000	6,000	7 per ct.
..	Kings.....	Brooklyn....	3,000	6,000	7 per ct.
..	Kings.....	Brooklyn....	2,500	6,000	7 per ct.
..	Kings.....	Brooklyn....	2,500	6,000	7 per ct.
..	Kings.....	Brooklyn....	2,500	6,000	7 per ct.
..	Kings.....	Brooklyn....	2,500	6,000	7 per ct.
..	Kings.....	Brooklyn....	8,000	25,000	7 per ct.
..	Westchester ..	Yonkers.....	6,000	18,000	7 per ct.
..	New York....	New York....	3,000	10,000	7 per ct.
..	New York....	New York....	3,000	10,000	7 per ct.
..	Kings.....	Brooklyn....	6,000	15,000	7 per ct.
..	Kings.....	Brooklyn....	2,000	5,000	7 per ct.
..	Kings.....	Brooklyn....	3,600	8,000	7 per ct.
..	Kings.....	Brooklyn....	3,600	8,000	7 per ct.
..	Kings.....	Brooklyn....	3,600	8,000	7 per ct.
..	Kings.....	Brooklyn....	3,600	8,000	7 per ct.
..	Kings.....	Brooklyn....	3,600	8,000	7 per ct.
..	Kings.....	Brooklyn....	3,600	8,000	7 per ct.
			\$91,700	\$253,000	

SCHEDULE F.—CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

NAME OF BANK OR TRUST CO.	Location.	Am't on deposit.	At what rate of interest.
Ninth Ward bank.....	New York...	\$8,516 66	4 per cent.
Loaners' bank.....	New York...	24,415 90	6 per cent.
		\$32,932 56	

SCHEDULE G.

LOANS, DEPOSITS, INVESTMENTS OR ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED, VIZ.*

* As interest credited to depositors is stated among the liabilities, it will, of course, be just to include in this schedule the interest due, though unpaid, on investments.

Revenue stamps.....	\$150 00
Office fixtures.....	4,316 32
Interest due and unpaid.....	4,250 78
	<u>\$8,717 10</u>

Report of the Abingdon Square Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1875, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$91,700 00
2. Stock investments, as per Schedule B, hereto annexed.....	
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	
4. Amount loaned on stocks or bonds of private corporations, as per Schedule E, hereto annexed.....	
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate, cost \$24,853.19; market value, \$; standing on books at \$24,853.19.....	24,853 19

7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	\$32,932 56
8. Cash on hand not deposited in bank.....	21,550 67
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	8,717 10
	<hr/>
	\$179,753 52
	<hr/>

Liabilities

1. Amount due depositors.....	\$176,066 27
Principal.....	\$171,875 87
Interest credited for the 1st of January, 1875	4,190 40
2. Other liabilities, viz.....	
3. Excess of assets over liabilities.....	3,687 25
	<hr/>
	\$179,753 52
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1875.....	1,083
2. Number of accounts opened during the year 1874..	286
3. Number of accounts closed during the year 1874...	309
4. Number of accounts opened since organization....	2,476
5. Amount deposited, not including interest credited during 1874.....	\$168,245 43
6. Amount deposited, including interest credited for the same period.....	176,571 04
7. Amount withdrawn during the year 1874.	168,727 88
8. Amount of interests or profits received* during the year 1874	10,032 49
9. Amount of interest credited to depositors for the same period	8,325 61
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited: July 1, 1874, \$4,135.21; January 1, 1875, \$4,190.40 Credited at other periods during the year....	
11. Rate per cent of dividends or interest to depositors during the past year, six per cent.	

* If amount received is reported, strike out "or earned;" if amount earned is reported, strike out "received or."

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

Charles A. Schumacker, president, and George W. Brown, secretary, of the Abingdon Square Savings Bank, an incorporated institution for savings, located and doing business at No. 23 Abingdon Square, in the city of New York, being duly and severally sworn, each for himself saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the 1st day of January, 1875, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

CHARLES A. SCHUMACKER,
President.

GEORGE W. BROWN,
Secretary.

Severally subscribed and sworn by }
both deponents, the 22d day of }
January, 1875, before me. }

DANIEL T. BROWN,
Notary Public, N. Y. City and Co.

Q. Now I call for the report of November 4, 1875.

Mr. CHAPMAN — That is in evidence, on page 300.

Mr. OLMSTEAD — It is in evidence on page 300 and 301 of the printed testimony, but I would like to see the original paper.

The witness produced the same, which was read by Mr. Olmstead.

Senator GERARD — Mr. Olmstead, we have all this before us.

Mr. OLMSTEAD — Yes, sir; but I want to call attention to one or two matters. I call attention to the note at the bottom of the page: "The officers have recently exchanged real estate, etc." The note does not appear to be printed like the letter which accompanies this report, and I will therefore read the letter from Mr. Reid to Mr. Ellis. I may say that this examination is in pursuance of a commission signed by D. C. Ellis, superintendent, dated the 25th of October, 1875. The letter reads:

"Hon. D. C. ELLIS, *Superintendent Banking Department*:

"SIR. — The undersigned, appointed to examine into the condition, etc." I identify this as the same report as that upon page 301 of the testimony. It appears to be a report made by George W. Reid on the Abingdon Square Savings Bank, on the 4th of November, 1875. It shows a surplus of \$4,422.70. a deficiency of income of \$464.60. I offer this in evidence.

Mr. CHAPMAN — It is already in.

Mr. TRACY — The later part we want in which reads:

“Hon. D. C. ELLIS, *Superintendent Bank Department* :

“SIR. — The undersigned, appointed to examine into the condition, working, etc., of the Abingdon Square Savings Bank, reports:

“The officers of this bank have recently exchanged real estate, bid in on a foreclosure in Brooklyn, for other property here, which has been sold at a profit, and purchase-money mortgages taken and the lots been built upon. The exchange appears to have been made in good faith, although forbidden by their charter; and as the loans are said to be amply secured, there is an apparent surplus of \$4,424.

“The trustees have given their individual notes to the president to the amount of \$10,000, as an additional security to protect the depositors against any loss.

“Respectfully submitted,

“GEO. W. REID.

“Examined November 4, 1875.”

Q. Can you tell how it happens that the memorandum on the bottom of page 301 of the printed case varies from the original letter attached to that report? A. I don't see any essential difference in them; one of them is to abridge it.

Q. The printed memorandum says: “To increase this security to depositors the trustees have given their notes to the president for \$10,000,” and the other says: “The trustees have given their individual notes to the president to the amount of \$10,000, as an additional security to protect the depositors against any loss?” A. There is no essential difference.

Mr. OLMSTEAD — This need not be marked.

Q. Are there any schedules with that report, Mr. Lamb? A. That is the examiner's report; it is not a schedule; there are no schedules to that; there are schedules accompanying the examiner's report.

Q. Were there any other examinations than those you have already mentioned prior to January 1, 1876? A. Not to my knowledge.

Q. Any letters to the department prior to that date? A. No, sir.

Q. Please produce the report of the banks of January 1, 1876?

The witness produced the same, which was read by Mr. Olmstead as follows:

SCHEDULE A — BONDS AND MORTGAGES.

No.	County where mortgaged premises are located.	In what city, village or town	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.	Date of last payment of interest.
....	Kings.....	Brooklyn.....	\$2,500 00	\$6,000 00	7	May 11, 1875
....	Kings.....	Brooklyn.....	2,000 00	6,000 00	7	Nov. 11, 1875
....	Kings.....	Brooklyn.....	2,500 00	6,000 00	7	May 11, 1875
....	Kings.....	Brooklyn.....	2,000 00	6,000 00	7	May 11, 1875
....	Kings.....	Brooklyn.....	2,000 00	6,000 00	7	Dec. 16, 1875
....	Kings.....	Brooklyn.....	3,000 00	6,000 00	7	June 16, 1875
....	Kings.....	Brooklyn.....	6,000 00	15,000 00	7	Nov. 11, 1875
....	Kings.....	Brooklyn.....	3,600 00	7,500 00	7	Nov. 25, 1875
....	Kings.....	Brooklyn.....	3,600 00	7,500 00	7	Nov. 25, 1875
....	Kings.....	Brooklyn.....	3,000 00	7,500 00	7	Nov. 29, 1875
....	Kings.....	Brooklyn.....	3,000 00	7,500 00	7	Nov. 29, 1875
....	Kings.....	Brooklyn.....	3,000 00	7,500 00	7	Nov. 29, 1875
....	Kings.....	Brooklyn.....	3,000 00	7,500 00	7	Nov. 25, 1875
....	Kings.....	Brooklyn.....	3,000 00	7,500 00	7	Nov. 25, 1874
....	Kings.....	Brooklyn.....	3,600 00	7,200 00	7	Nov. 8, 1875
....	Kings.....	Brooklyn.....	3,600 00	7,200 00	7	Nov. 8, 1875
....	Kings.....	Brooklyn.....	3,600 00	7,200 00	7	Nov. 8, 1875
....	Kings*.....	Brooklyn.....	11,000 00	27,500 00	7	Aug. 31, 1875
....	Kings*.....	Brooklyn.....	13,000 00	32,500 00	7	Aug. 31, 1875
			\$77,000 00	\$185,100 00		

* Unproductive and unimproved.

Fuel and lights.	\$216 00
Tax, State, county, town, village and city.	9 84
Taxes, U. S.	176 21
Other expenses, viz.: Moving from basement to first floor, which, including \$200 of the amount under head of "repairs," should in our judgment be deducted as not being current or running expenses, although actually paid in 1875.	351 60
	<hr/>
	\$3,973 78
	<hr/>

SCHEDULE G.

STATISTICAL INFORMATION.

1. Number of open accounts January 1, 1876.	957
2. Number of accounts opened during the year 1875..	204
3. Number of accounts reopened during the year 1875,	
4. Number of accounts closed during the year 1875..	331
5. Amount deposited, including interest credited, during the year 1875.	\$132,866 30
6. Amount of deposits withdrawn during the same period.	165,229 63
7. Amount of interest credited to the depositors for the year 1875.	7,329 18
8. Amount of each semi-annual credit of interest for the year 1875 and when credited, July 1, 1875, \$4,027.53; January 1, 1876, \$3,301.65.	
Credited at other periods during the year.	None.
Paid, but credited, during the year.	None.
9. Amount of extra dividends, if any, and when credited.	None.
10. Amount of the largest single deposit, exclusive of interest.	6,000 00
11. Average amount of each deposit, January 1, 1876,	147 76
12. Market value of real estate, viz.: Banking-house and lot, \$; other real estate, \$	59,800 00
13. Rate per cent of dividends or interest to depositors during the past year, six per cent.	

Report of the Abingdon Square Savings Bank, an institution for savings, of its condition on the morning of the 1st day of January, 1876, made to the Superintendent of the Banking Department, as required by chapter 371 of the Laws of 1875.

Resources.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed.....	\$77,000 00
2. Stock investments, as shown by Schedule B, hereto annexed, cost.....	
3. Amount loaned on stocks, as authorized by section 27, chapter 371, Laws of 1875, as shown by Schedule C, hereto annexed.....	
4. Banking-house and lot at cost	
5. Other real estate at cost	36,977 64
7. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed.....	5,663 48
8. Cash on hand	25,220 16
9. Amount of all other assets, the particular items of which are set forth in Schedule E, hereto annexed,	6,049 24
	<hr/>
	\$150,910 52
	<hr/>

Liabilities.

1. Amount due depositors.....	\$143,702 94
Principal	\$140,401 29
Interest credited for the six months ending January 1, 1876	3,301 65
2. Other liabilities, viz.....	
3. Excess of assets over liabilities.....	7,207 58
	<hr/>
	\$150,910 52
	<hr/>

CASH TRANSACTIONS DURING THE YEAR 1875.

Receipts.

Cash on hand and in bank or trust companies, Jan. 1, 1875, before transactions of the day	\$54,483 23
From depositors	125,537 12
From interest on loans, deposits and investments.....	6,539 69
From all other profits, viz.: Premiums, \$; rents, \$267.....	267 00
From mortgages paid, called in or foreclosed.....	32,700 00
From redemption of stocks.....	

From loans repaid.....	
From other sources, viz.: On sales of real estate held by the bank.....	\$16,329 18
	<hr/>
	\$235,856 22
	<hr/>

Payments.

To depositors, including interest paid to them.....	\$165,229 63
For loans on bonds and mortgages.....	18,000 00
For loans on stocks and other securities.....	
For stocks and bonds purchased, par value, \$	
For real estate purchased.....	17,769 17
For interest not included in payments to depositors..	
For expenses, as shown by Schedule F, hereto annexed,	3,973 78
Other payments, viz.....	
Cash on hand and in bank Dec. 31, 1875, after the transactions of the day.....	30,883 64
	<hr/>
	\$235,856 22
	<hr/>

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Charles A. Schumacher, president, and George W. Brown, secretary, of the Abingdon Square Savings Bank, an institution for savings, organized under the laws of the State of New York, located and doing business at No. 23 Abingdon Square, in the city of New York, being duly sworn, each for himself saith, that the foregoing report of resources and liabilities and cash transactions, and the schedules accompanying this report designated, respectively, A, B, C, D, E, F and G, are, in all respects, a true statement of the condition of said institution before the transactions of any business on the morning of the 1st day of January, 1876, in respect to each and every of the items and particulars therein specified.

CHARLES A. SCHUMACHER,
President.

GEORGE W. BROWN,
Secretary.

Severally subscribed and sworn by both }
deponents, the 28th day of January, }
1876, before me.

[L. S.]

BEEKMAN S. BURNHAN,
Notary Public.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Conrad Kleinschmidt and Leroy L. Goodrich, being duly sworn, each for himself saith, that he is one of a committee of three regularly appointed by the trustees of the abingdon Square Savings Bank, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings (as provided and directed by section 45 of chapter 371 of the Laws of 1875), and that the within statement of assets is a true statement of the value of such assets in possession of and owned by said institution on the morning of January 1, 1876, as appeared by the examination made by such committee, in pursuance of section 45 of the law above cited.

C. KLEINSCHMIDT.

L. L. GOODRICH.

Subscribed and sworn by each deponent before me, this 28th day of January, 1876.

BEEKMAN T. BURNHAM,

Notary Public.

Q. Was that memorandum in pencil at the bottom of that report written by you? A. Yes, sir.

Q. What was the occasion of it? A. There were some things in the report that required explanation; I presume the items are stated in the schedule or schedules.

Q. I observe, Mr. Lamb, that, in your former testimony, you were asked by Mr. Chapman if, so far as you know, up to the time of the receipt of this letter of July twenty-ninth, the Bank Department had any knowledge in regard to the correctness of the items, and you said, "yes, sir, I think we had a letter of July sixth, showing a deficiency of about \$6,000;" have you that letter of July 6, 1876 and, if so, please read it? A.

"NEW YORK, *July 6, 1876.*

Hon. D. C. ELLIS:

DEAR SIR.-- After I left you at the Jo. City Bk. I went down to the Abingdon Square S. Bk. January first, they reported assets, \$150,910.52; surplus, \$7,207.50. The Secretary, Brown, was not in; but the June first statement shows:

Due depositors.....	\$94,540 62
Due loan....	8,359 60

Assets

\$102,900 22

Bonds and mortgages.....	\$43,800 00	
Real estate bid in.....	38,411 50	
Furniture and fixtures.....	4,431 70	
Cash.....	9,473 05	
	<hr/>	\$96,116 25
Deficiency..		<hr/>
		\$6,783 97

I think the accrued interest would add something to this amount. The amount due depositors now is about the same as June first."

By Senator GERARD:

Q. What is the date ? A. July 6, 1876 ; signed Geo. W. Reid.

Mr. OLMSTEAD — We offer in evidence that letter.

By Mr. OLMSTEAD :

Q. When did you first see that letter, Mr. Lamb ? A. I presume on the seventh of July.

Q. On your former examination this question was put to you by Mr. Chapman, on page 306 of the testimony: " Had you, or the department, to your knowledge, any knowledge or information as to there having been a previous bogus deposit up to the time you got this letter ? " and you say you had received that letter ?

Mr. CHAPMAN — That has reference to another letter.

Mr. OLMSTEAD — It refers to the letter of July 19, 1876, on that same page.

Q. You had the knowledge that is contained in that letter prior to July 19, 1876, hadn't you ? A. I had this letter of July sixth.

Q. That was prior to the information that the department received ? A. I am not aware that there is any information in here.

Mr. OLMSTEAD — It is only the fact of the deficiency of \$6,783.97

Q. Now, can you inform the Senate how that deficiency of \$6,783.97 occurs ? A. No, sir, I cannot.

Q. By throwing out the bogus check mentioned in the letter of July 19, 1876, that would account for that deficiency, wouldn't it ? The letter first speaks of the bogus deposit of \$10,000, and then says: " Edgar F. Brown put in his check for \$5,000; his brother, D. F. Brown, \$4,500, and the clerk \$5,000 ; the secretary is absent from the city at present, but I find the clerk put in his check for \$9,800, and counted it as cash for the July report ; " with those checks thrown out that would account for that deficiency ? A. And more, too.

Mr. OLMSTEAD read the letter, as follows :

NEW YORK, *July* 19, 1876.

Hon. D. C. ELLIS :

DEAR SIR.—In January, 1874, the secretary of Abingdon Square S. Bank, in order to make a better show, entered a bogus deposit of \$10,000, and counted it as so much cash in hand. When I discovered it a short time afterwards, I remonstrated and he promised not to do so again.

The same thing was done last January. The attorney Edgar F. Brown, put in his check for \$5,000, his brother, D. T. B., 4,500, and the clerk 5,000. The secretary is absent from the city at present, but I find the clerk put in his check for 9,800, and counted it as cash for the July report. He has also entered real estate as more than 60,000, on which they owe a mortgage 5,000. These figures are not on the books, but furnished by the attorney.

The true figures, as shown by their monthly statement, is as follows :

July 1.	
Bonds and M.	\$43,800 00
Furniture and fixtures.	4,431 70
Real estate bid in.	38,411 50
Cash.	\$26,079 91
Less check	9,800 00
	<hr/>
	16,279 91
Apparent deficiency (without interest either way).	7,125 39
	<hr/>
	\$110,048 50
	<hr/>
Due depositors (less 9,800 bogus).	\$95,048 50
Loan for.	15,000 00
	<hr/>
	\$110,048 50
	<hr/>

This loan is secured by *trustees' notes* and assigned B. and M.

The attorney is out of the city, and as soon as he returns next week I will see him.

I am going to Perth Amboy this afternoon ; will return Monday.

Yours truly,

GEO. W. REID.

Q. Now, when that letter of July 6, 1876, was received by the department, did Mr. Ellis see the letter? A. Yes, sir.

By Mr. CHAPMAN :

Q. Was he in town then? A. No, sir.

Q. Did you say "yes" to the last question? A. Yes, sir; as to the question whether Mr. Ellis saw the letter I say "yes;" to the question was he in town, I say "no."

By Mr. OLMSTEAD:

Q. Where was Mr. Ellis at that time? A. He was at Rochester.

Q. Did you receive the letter? A. Yes, sir.

Q. Did you open it? A. Yes, sir.

Q. What did you do with the letter? A. I sent it to Mr. Ellis.

Q. To Rochester? A. Yes, sir.

Q. What occurred next; how soon did you see Mr. Ellis after that? A. He returned from Rochester in a few days.

Q. Was any thing done about this letter or this matter? A. No, sir.

Q. Did he see you in regard to it? A. He returned the letter to me in the office.

Q. He came to you in the office? A. Yes, sir.

Q. Did he say any thing when he gave it to you? A. I don't recollect that he made any remark in regard to it.

Q. Did he give you any instructions of any sort? A. No, sir.

Q. Was any thing done in respect to the bank at that time by the department? A. No, sir.

Q. No notices sent? A. No, sir.

Q. Then the next thing that occurred was the letter of July 19, 1876, from Reid to Ellis, which appears on page 306 of the testimony? A. Yes, sir.

Mr. OLMSTEAD — I will state that that makes a deficiency of \$1,000 more according to the letter.

Q. Now, did you receive that letter? A. I did.

Q. Where were you when you received it? A. In the Bank Department; I took it from the post-office to the Bank Department.

Q. Did you open it? A. Yes, sir.

Q. Where was Mr. Ellis at that time? A. In Albany, to my recollection.

Q. Was he in the office at the same time? A. I can't say that he was in the office on the day I received the letter (on the twentieth), but I showed the letter to him after its receipt.

Q. About that time? A. Yes, sir.

Q. What did he do; did he look at it? A. He read it.

Q. Did he say any thing about it? A. Not that I recollect; if he made any comment about it I don't recollect now.

Q. Did you, either of you, say any thing about it? A. I don't think I made any comment about it either.

Q. What was done about it? A. It was put upon the files of the office.

Q. Did he return it to you ? A. At that time?

Q. Yes, sir? A. I think it was laid down on a desk near my writing desk ; his son filed it ; a clerk in the office.

Q. Is the date of filing upon it? A. Yes, sir; "George W. Reid, July 19th, 1876."

Q. Did Ellis give you any instructions in regard to the bank at that time? A. No, sir.

Q. What did Ellis do ; did he remain in Albany? A. Until a very few days afterwards.

Q. How long? A. I don't know that he saw the letter of the thirtieth ; it was before that he went away that he saw it ; I can't tell within two or three days.

Q. Do you know where he went when he went away? A. On his summer vacation to New Hampshire, or somewhere there.

Q. How long before he returned? A. Five or six weeks ; six or seven ; I can't tell exactly.

Q. He left no instructions in regard to this bank? A. Not to me.

Q. He issued no orders? A. No, sir.

Q. There were no orders issued by the superintendent at that time before he went away? A. No, sir.

Q. Have you any other letters from Reid about that time, or to that time, than the letter to the Attorney-General? A. Another letter dated July twenty-sixth, refers to this bank among various other matters.

Q. What does it say, sir, if you please?

"NEW YORK, *July 26, 1876.*

"HON. D. C. ELLIS :

"DEAR SIR — Edgar F. Brown, attorney of the Abingdon Square, told me yesterday that they ought to have taken my advice four years ago and closed up. The trustees were to meet last evening and he would advise them to apply to you to have a receiver appointed and pay off the depositors themselves. Owing to the large amount of real estate owned they cannot do as the Clinton proposed, therefore, he suggested that their vice-president, Dr. Hubbard, who is a real estate broker, act as receiver, and he could guide the depositors and close up with less expense.

"GEO. W. REID."

Q. Was that the only letter that was received before you wrote to the Attorney-General? A. Yes, sir.

Q. What was the next thing done, Mr. Lamb, by yourself or the department in regard to this bank? A. On the twenty-ninth of July I wrote a letter to the Attorney-General.

Q. That is the letter before put in evidence on page 307, I suppose?
A. I presume it is.

Q. [Showing same at page 307.] Is that it? A. Yes, sir; that is the same letter.

Q. You refer in that letter to a statement made by the examiner; what statement did you refer to there? A. Statements contained in the two letters of July sixth and July nineteenth.

Q. The same letters that had been shown to Mr. Ellis? A. Yes, sir; the same letters that have been put in.

Q. So far as you know, when you wrote that letter of the 29th of July, 1876, were you possessed of any information in regard to this bank that Mr. Ellis was not possessed of, as far as you know? A. No, sir; I had nothing except that contained in Mr. Reid's letters.

Q. Mr. Ellis was absent during all this period, I understand you to say? A. He went away the last part of July, and was absent through August and a part of September.

Q. After you wrote that letter, did you have any communication with any of the officers of the bank? A. Yes, sir; the officers of the bank sent an attorney named Averill.

Q. Horatio F. Averill? A. Yes, sir.

Q. Did he call on you? A. Yes, sir.

Q. What did he say? A. He wanted to have proceedings suspended in regard to the application made to the Attorney-General.

Q. What was done? A. I addressed a letter to the Attorney-General asking for a suspension of the proceedings for a limited time, that the trustees might pay in a sum of money that would put the bank on a sound footing.

Q. Have you a copy of that letter? A. It is in our letter-book; letter is dated August 2, 1876:

“ August 2, 1876.

“ *To the Trustees of the Abinydon Square Savings Bank :*

“ Mr. Averill will present to you the facts upon which I have felt constrained, in the discharge of official duty, to recommend to the Attorney-General, that a receiver be appointed to close your bank; upon one condition I would withdraw the recommendation, viz. : that the trustees of the institution, shall pay into the bank to become a part of its assets, to meet the claims of depositors, or of other creditors, a sum of money sufficient to meet every claim of a pecuniary nature upon the corporation; Mr. Reid, the examiner, shall examine and report to this department, whether this has been done; if you propose to do this, the action must be prompt; in order to give you the opportunity to place the bank in this way, upon at least, a sound founda-

tion, I accede to the request of Mr. Averill and request the Attorney-General to suspend proceedings until Monday, August seventh.

"Yours truly.

"HENRY L. LAMB,

"*Deputy Superintendent.*"

On the same day I addressed a note to the Attorney-General in regard to this matter.

Q. Have you a copy of that? A. I have, it reads:

"August 2, 1876.

"CHARLES S. FAIRCHILD, *Attorney-General*:

"It is represented to me that the trustees of the Abingdon Square Savings Bank may make good the deficiency in the assets of that institution by paying in cash themselves; as this would be to the advantage of the depositors, in order to give the trustees the opportunity to do this if they choose, I respectfully request and recommend, that legal proceedings be suspended until Monday, August 7, 1876.

"Yours truly.

"HENRY L. LAMB,

"*Deputy Superintendent.*"

I also wrote a letter in regard to it.

Q. Read that also?

"August 2, 1876.

"MY DEAR REID.— I have suspended proceedings against the Abingdon Square Savings Bank until next Monday. This is done to give the trustees a chance to make the bank solvent and sound, if they prefer that to immediate dissolution. You are to examine and report to the department whether they have done so. In case they profess to be willing to do it, I suppose they will inform you soon, if they intend to take this course. If called upon to do it, be sure and make the examination thorough, and see that the bank is secure beyond all peradventure.

"Truly,

"HENRY L. LAMB,

"*Deputy Superintendent.*"

MR. OLMSTEAD — I offer those three letters in evidence.

Q. Did Mr. Reid make any report to you of his examination? A. I don't think he did; the trustees didn't do as much as they proposed to do.

Q. State what was done or what was not done? A. There is a letter from Mr. Reid, which is as follows:

"NEW YORK, August 5, 1876.

"MY DEAR LAMB.— I have seen Mr. Averill in respect to the Abingdon Square, and am now going up to see Vice-president Burnham about the \$10,000. I have but little confidence in their real estate, and will try and get the money as it will be clear gain to the depositors. The bank never can succeed.

" REID."

Q. Was the money by the trustees or the deficiency made up so far as you know? A. No, sir.

Q. Nothing done by the trustees? A. No, sir.

Q. What was the next thing that was done, if any thing? A. My recollection is that the limitation in this suspension having been reached, the trustees doing nothing, the Attorney-General then proceeded to close the bank.

Mr. OLMSTEAD — I will state that it appears upon page 309 of the testimony that the process was served, to close the bank on August 10, 1876.

The WITNESS — The arrangement for the time for it had expired.

Cross-examination :

By Mr. CHAPMAN :

Q. Now, the counsel took some time asking in regard to the difference between the letter accompanying Mr. Reid's report and the digest of the letter printed in the printed report; did Mr. Ellis make that digest? A. No, sir.

Q. Who made it? A. I made it.

Q. You made it correctly, did you not? A. I made that note as I do in other cases (I do all that work), intending to give a true idea of the letter which Mr. Reid sent; I did not follow his phraseology.

Q. Will you let me see the bank report of January 1, 1876; counsel called your attention to the pencil mark upon this report which reads: "Please correct and return; H. L. Lamb, deputy;" what does that mean? A. It means that there were some things in the report that required explanation or clerical changes, and it was done.

Q. You sent it back to the bank for them to make the corrections? A. Yes sir.

Q. And they made the corrections and returned it to you? A. Yes, sir.

Q. I understand you to say that up to the receipt of this letter of Reid of July sixth, the Bank Department had no knowledge of any thing to impugn the correctness of the returns? A. No, sir; not to my knowledge.

Q. Very well; we will come down to the letter of July 6, 1876; there is a letter of July 6, 1876, from Mr. Reid, received by you? A. Yes, sir.

Q. Also a letter of July 19, 1876 received by you? A. Yes, sir.

Q. Also one of July 26th received by you from Reid? A. Yes, sir.

Q. And on the 29th you handed the bank over to the Attorney-General? A. Yes, sir.

Q. Now, in this letter of the 19th, there are indications that during the time of the writing of these letters, Mr. Reid is having conferences with the bank officers, are there not? Yes, sir; he visited the bank.

Q. In his letter of July 19th, he says: "This loan is secured by trustees' notes and assigned bond and mortgage; the attorney is out of the city, and as soon as he returns next week I will see him?" A. Yes, sir.

Q. These letters speak of meetings, don't they? A. One of them does.

Q. Do you recollect the day Mr. Ellis took his summer vacation that year? A. I couldn't fix the day of the month.

Q. Do you know whether he was in Rochester when you sent this letter of July 6th, addressed to him in Rochester? A. His post-office address was in Rochester.

Q. Whether he may have been out of the town or not, do you know? A. I couldn't tell.

Q. Can you tell when he came back from Rochester? A. I cannot.

Q. Can you tell whether he came back before July 19th, or not? A. No, sir; I cannot.

Q. Now, do you say that you and Mr. Ellis had no talk whatever in regard to the bank when he looked over these letters? A. Not that I can recollect.

Q. What you mean is, that you can't recollect any thing that was said; that is all you mean to say about that, is it? A. To the best of my recollection, we had no conversation about it; I can't recollect it.

Q. How long before the twenty-ninth of July did he go away? A. Well, I should think it might have been three or four days; perhaps five days.

Q. That would be before the letter of July twenty-sixth was received by the department at all, wouldn't it? A. Yes, sir.

Q. Then he didn't see the letter of July twenty-sixth, in all probability, until after he came back from his summer vacation? A. Well, I wouldn't be positive; I don't recollect of showing him the letter of July twenty-sixth; I wouldn't swear that he saw that letter.

Q. Your best recollection would be that he didn't see that? A. Yes, sir.

Q. It was on that letter that you reported the bank to the Attorney-General? A. It was more particularly on the other letters, which show the deficiencies; both of them.

Q. You didn't act until after you received that? A. No, sir.

Q. Then I understand that the only time during which there was any delay, was from July sixth to the twenty-ninth of July? A. Yes, sir.

Q. And the letters indicate that during that time Mr. Reid was having meetings with the officers of the bank? A. Yes, sir.

Q. On the twenty-ninth you handed it over to the Attorney-General? A. Yes, sir.

Q. After that Mr. Reid is having still further communication with the officers, and you are doing the same, are you not? A. Yes, sir.

Q. And you still further ask the Attorney-General to grant delay on the conditions mentioned in your letter? A. Yes, sir; I did.

Q. Mr. Lamb, that has been the policy, so far as you know, of the department, to grant to these savings banks opportunities to make up deficiencies or to get themselves in shape to pass along in safety? A. If it seemed there was any chance of success.

Q. You, in giving this length of time on these conditions, thought there might be a chance of success, didn't you? A. Yes, sir; or else I wouldn't have given it.

Q. That has been the policy of the department, along back, so far as you have been able to ascertain, hasn't it, in dealing with savings banks? A. That has been the general rule and practice.

Q. With the idea that the bank could possibly be saved it would be a great deal better for the depositors in that bank than it would be to throw the bank into the hands of a receiver? A. Yes, sir; and one other consideration.

Q. You may give us the other? A. If we could get in those cases for illustration \$10,000 in cash, it was so much gain.

Q. In several of these banks that has been the case, where extensions have been given; it has been the case that there has been something gained for the benefit of the depositors? A. Yes, sir.

Q. Don't you know, in looking over the administration under Mr. Howell, that was the course pursued by him? A. That has been the understanding in the department as the interpretation of the law.

Mr. TRACY— That is going too far, as to the interpretation of the law.

Mr. CHAPMAN— Very well, we will waive that until a subsequent time, when we will bring up the question.

By Mr. GERARD:

Q. Mr. Lamb, was this examination, in November, 1875, by Reid, a

usual examination, or a special examination — the one on page 300 ?
A. That of November 4, 1875, was a regular examination.

Q. A regular two years' examination ? A. Yes, sir.

Q. And the one of 1874 was how ; that was a special examination, wasn't it ? A. I don't recollect that one ; there was one regular examination made in November, 1873.

Q. Was there any special examination from 1873 down to this regular examination in November 1875, on the fourth, that you know of ? A. The first examination recorded is December 1 and 2, 1873, and the next one is December, 1875, made November fourth, and the next one was made in August, 1876, on the tenth, under my instructions, by Mr. Reid.

By Mr. CHAPMAN :

Q. After you had handed it over to the Attorney-General ? A. Yes, sir.

By Mr. GERARD :

Q. There were no others made there at all ? A. No, sir.

Q. I see in the examination of 1875 there is a surplus of \$4,424.70 in assets over liabilities, and then a deficiency of income of \$664.60 ; was this a small or a large bank ? A. A small bank.

Q. Now, wasn't it, therefore, a condition of very grave suspicion ; wasn't that such a deficiency and such a surplus as would ordinarily give grounds for suspicion against the solvency of this bank ? A. I should think it indicates insolvency at that date.

Q. Doesn't it indicate weakness ? A. Yes, sir.

Q. In comparison with the status of the banks generally as you recognize them ? A. Yes, sir.

Q. A deficiency of income denotes insufficient security ? A. It may indicate insufficient income or too large expenses.

Q. How came Mr. Reid to go down in 1876 on the nineteenth of July, and make this examination, under any peculiar circumstances of suspicion ? A. There were several banks in New York in the condition of this one ; banks that were weak and required to be watched and looked into, and Mr. Reid had a general direction and superintendence, when he had the leisure, to go in and see what the condition of those banks was.

Q. He examined this weak bank at about that time ? A. I don't know what other ones he examined then ; I can't tell without referring to the records of the office.

Q. I see in this letter of Mr. Reid's in reference to this examination of 1875, to which there are no schedules annexed, he states : " It is said that all loans are well secured ; " what do you understand by those

words; that he had investigated these loans or merely taken them from the statements of the officers? A. I think Mr. Reid can explain that better than I.

Q. That is a letter to the department? A. Yes, sir.

Q. You had an understanding of it when it was received? A. I read it.

Q. What was the natural interpretation of those letters in your department; "it is said that all loans are well secured?" A. I should think he took the statements of the officers; perhaps he swore the officers as to the correctness of the matter.

By Mr. CHAPMAN:

Q. What did Mr. Ellis say, in regard to your action? A. Before he returned I had occasion to write a private letter to him about other matters, and I mentioned the action in this transaction, and in his reply he approved the course which I had taken in respect to this bank.

Q. I see by the last report which has been given in evidence that the Loaners' Bank has a very small amount of this bank's money in its possession; these reports are made showing the amount of cash on hand and in deposit before it is divided up among the depositors at each semi-annual period, do they not—comparatively large sums on hand? A. I don't quite understand you.

Q. Why, they distribute their dividends among the depositors on the first days of January and July, and these reports are made of the condition of the bank on that day? A. Yes, sir.

Q. And these reports indicate the amount of money then on hand before it is distributed? A. Yes, sir.

Q. My friend read, with considerable emphasis, about having \$25,000 and \$30,000 at these different periods in the Loaners' Bank; the last report you have in regard to it indicates that the money was all drawn out of the Loaners' Bank, doesn't it? A. Pretty nearly all of it.

Q. And the bank then did get all the money that went into the Loaners' Bank and six per cent interest upon it, so far as it appears from the report, and so far as you know? A. I never heard that they lost any money by deposit in that bank.

Q. Before that bank failed, this bank had succeeded in getting its money and six per cent interest upon it? A. So far as I am advised

Re-direct examination:

By Mr. OLMSTEAD:

Q. Have you been advised that this bank never had any money in the Loaners' Bank at all? A. No, sir.

Q. Did you ever hear that the bonds put in were bonds borrowed of the Continental Life Insurance Company? A. No, sir.

Q. You never heard that there was any fraudulent transaction about it? A. No, sir.

Q. You had no power to act by the law, if Mr. Ellis was away? A. Unless he directed me.

Q. In response to a question of counsel for the respondent, you say you thought there might be a chance of success in this bank; did you think there would be any other chance because the trustees paid up the money? A. Not at that time.

By Senator VEEDER :

Q. I understood you to say, in response to a question of the Senator from the Seventh [Mr. Gerard], that the reason Mr. Reid went to New York in July, 1876, to examine this bank, was because there were a number of other weak banks there to examine, or something to that effect? A. All I meant to say was that Mr. Reid had a general direction from the superintendent to look into and see the condition of several banks in New York that the superintendent thought needed watching or needed frequent examination, not on this particular occasion, but any time when Mr. Reid had leisure.

Q. I don't ask you for the name of the bank, but can you tell whether or not there was a bank or banks in the city of New York in the condition, or nearly in the condition, of this bank that the Bank Department nursed into strength by this process; whether there were any banks that were weak and that are now comparatively strong; that is, that have survived bankruptcy? A. Well, I have in mind one bank of that kind; I don't recollect but one now; it is still a small bank, but has the appearance of solvency to-day, and yet it is a bank we have watched, and have had, I may say, doubts, about its success, but it is struggling along, apparently, towards success.

Q. Is its condition better than it was? A. Yes, sir; I think it is.

By Mr. CHAPMAN :

Q. Has your attention been directed especially to banks with that precise question in view; has your attention been specifically directed to it? A. I don't understand you exactly.

Q. Can you tell me how many banks there were which have reported a deficiency of income, and that have come out of that so that they have no deficiency of income? A. Yes, sir; and while I am talking about it I think of another one now.

Q. Another one that you would allude to in response to the

Senator's question? A. Yes, sir; I have in mind a third one outside of the city of New York.

Q. And if you look about you will find several of those sort of banks, and banks that have had a deficiency of assets that have come out of that position and are stronger than before; there have been banks which have had a deficiency of assets that have come out of that position? A. Yes, sir.

By Mr. OLMSTEAD:

Q. Did this bank appear to you to be growing any better? A. No, sir, that particular bank did not.

Q. After receiving the letter of July nineteenth, you had no encouragement it would get any better? A. No, sir; I did not believe it would get any better.

By Mr MCGUIRE:

Q. There was only a period of twenty-three days intervening that? A. Yes, sir; there is one element of strength and growth that this bank did not have; it didn't have the right sort of trustees.

Q. When did you learn that fact? A. Mr. Reid's letter was one plain indication of it, and the developments, when it went into the hands of a receiver, were a perfect demonstration of it.

Q. Yet the intimation of this letter of the nineteenth, where he speaks of these deposits of bogus checks, and then when the bank was examined and the trustees of the bank looked into, after it went into insolvency, it became demonstrated that the trustees were improper persons? A. We didn't have as clear demonstration before as we did afterwards, but I have read one letter from Mr. Reid, in which he stated that he recommended the closing of the bank some time before it was closed; that is, he recommended the trustees to close it; he didn't make a recommendation to the department, but to the trustees

By Senator BRADLEY:

Q. What is this bogus deposit of \$10,000, referred to in this letter of the nineteenth? A. I suppose it is that the officers made their own checks and put them into the bank as cash, and after the report had been made for the first day of January of that year, they took those checks out again.

Q. Does the bogus deposit refer to the \$10,000 note of the trustees? A. I didn't understand it so; it referred to checks; Mr. Reid, who examined the bank, knows more about that than I do.

By Mr. CHAPMAN:

Q. Didn't Mr. Ellis give you general instructions in his absence, or otherwise, to act with as much freedom as he himself; has not that

been the understanding between you — that when he was away you should act fully and freely?

MR. TRACY — The law gave him that without instructions or advice.

A. I don't recollect that he ever gave me any instructions about it.

Q. A general talk or understanding between you and him? A. The law gave me power to act always, and I did so; he never intimated that I had done any thing that he disapproved when I took such action; you may say there was a tacit understanding between us, but no specific instructions.

Q. Wasn't that the understanding between you? A. I should say it was an understanding, but not reached by any definite instructions.

Q. Well, your idea was that the law gave that to you and he never disapproved of your action? A. No, sir, never at all.

Q. You speak of his being away six weeks; do you know any thing about the length of time he was away? A. He went away as I recollect, the last part of July; I think he didn't return until after the republican State convention was held; I can't tell the date of that, but it was some time in September, wasn't it? that is my recollection about it now; he didn't come back until September, I think.

Q. Wasn't the republican convention held in August? A. It may have been; I don't recollect.

Q. His recollection is he came back the latter part of August; you can't contradict that? A. No, sir; I have not at any time professed to be positive about that, nor am I now.

By Senator MCCARTHY:

Q. Have you in mind now any bank that is deficient in its assets and its earnings? A. I have a bank in mind that was reported by the examiner to be deficient in assets and income.

Q. Did you consider it a safe rule for the superintendent to lay down to allow such banks to go on without making those deficiencies and assets good? A. I know of no case in which an endeavor has not been made to make such deficiency good.

Q. You declare that some banks with a deficiency of assets have afterwards become good; I ask you whether you carried that view out as a principal in the management of savings banks? A. I would not make it a uniform rule; we deal with each institution according to its condition.

Q. As a general rule you would not consider it a correct rule? A. No, sir.

Q. As applied to many of these banks, you don't consider it a correct rule; I ask now in reference to the management of the Banking Department, and not as to the merits of this particular case; giving the opinion of an individual Senator, I think it would be very unsafe

and improper, and unwise to manage the Banking Department of this State in a way to allow banks with deficiency of assets and revenue to go on, trusting to circumstances or the management of the business to make them good? A. But when that fact is discovered immediate action is taken in regard to it, and in some cases the conditions seem to be favorable for allowing that bank to go on, and in other cases the conditions are so unfavorable that the best act seems to be to close them up.

Q. Would you allow any bank to go on without making its assets good? A. No, sir; I have tried to explain that.

By Senator PRINCE:

Q. Is it your idea that the proper policy is for the heads of this department to use its best judgment in order to save the money of the depositors in the savings banks through the State, by saving them from insolvency and keeping them out of the hands of receivers, if possible, when there is a chance of saving them? A. Where it seems, in the best judgment of the head of the department, that a bank can be saved, the rule would be to save the bank.

By Senator MCCARTHY:

Q. A bank makes a report to-day \$50,000 short; do you propose to let that bank go on with that deficiency? A. No, sir.

Q. Then, if it is immediately made good, there is no deficiency? A. No, sir.

Q. That is what I want to know — whether the department is to carry on the business in this loose way, or whether, when there is a deficiency, that the department shall immediately proceed to make that good, and consequently it is not left to the bank to manage it upon a deficiency of assets; there is no deficiency then, because it has made its deficiency good? A. Yes, sir.

Q. And you yourself acknowledge the fact that no bank should proceed until it has made its deficiency of assets good? A. Yes, sir.

By Mr. CHAPMAN:

Q. Has it not been the policy of the department in regard to all such banks to have the banks make themselves good, and if they don't to put them into the hands of receivers in each and every instance? A. Yes, sir; I think so.

By Senator PRINCE:

Q. In November, 1873, the examiner of this bank reported this bank was deficient? A. Yes, sir.

Q. How was that made good? A. The trustees paid in several hundred dollars.

Q. That appears by the reports? A. Mr. Reid reported that in a letter.

Q. That letter has been read here by you? A. Yes, sir; I believe it has.

Senator ST. JOHN — I would like to know where there is a case where it has confined itself strictly to using the money or invested money of the depositors in the securities as required by law — whether there is any deficiency there?

Mr. MCGUIRE — I don't understand there is any proof in the case that any securities in any of these banks have been taken contrary to law.

Senator ST. JOHN — If the gentleman can show me any law where they are allowed to take those securities, I should be happy to see it; I have never been able to find a law where a bank could invest in depreciated stocks, and the only law that allows it or ever did allow them to invest in South Carolina and such stocks is a special law applicable to New York and Brooklyn, which allows them to invest in the stocks of other States when they are selling at par or above par; is not that the law?

The WITNESS — That is the law, but there has been a source of loss to savings banks under the law, and several savings banks which have failed owe their failure in a great degree to losses occurring on account of loans made from their available funds upon collaterals; many of the charters of savings banks gave them the privilege to retain one-fifth to one-third of the deposits in an available fund which they might keep on deposit or on interest bonds or in any other available form, such as the trustees might direct, and the result has been that under that power a great many savings banks have made loans in considerable amounts upon collaterals which proved, in the end, to be of a kind that depreciated greatly, and perhaps became worthless; and that being the security for the loan, banks lost their money.

Q. Then the idea is that these bonds that have been taken in that way have been taken from the available funds? A. Yes, sir.

Q. Suppose they took a great deal more than they had in available funds to take? A. We often have occasion, in the department, to require banks to reduce their available funds and loans; we can't do that until we find out the fact in the particular bank, and when we do we immediately require them to reduce the loan.

Q. They can only invest to a certain extent? A. Only up to the charter limit, whether it be a quarter or a fifth, or a third; that, according to the law, is not styled an "investment" but a "loan."

By Mr. CHAPMAN:

Q. Have not the superintendents of the Banking Department as

far back as you know, sent repeated messages to the Legislature asking them to take away the available fund clause from the charters of these banks? A. Yes, sir.

Q. Every single message that has gone from the department to the Legislature, has asked the Legislature to take away those powers? A. Yes, sir.

Q. Do you know of a single message that has not asked just that?

A. I don't recollect any now.

Q. Did not Mr. Ellis in his reports to the Legislature, ask just those things?

Senator GERARD — I object.

Mr. CHAPMAN — Then I won't press it.

By Mr. TRACY:

Q. You speak of the available funds that they might loan out upon collateral; has there been any instance of their taking that fund and buying miscellaneous stocks and not loaning upon those stocks? A. Not to my knowledge; I don't know of any such case now.

Q. If you found any bank having in its assets a line of peculiar stock, they would not be there as a part of the available fund, but as an investment of the bank? A. Yes, sir; unless they had violated the law; sometimes we find transactions of that kind.

The PRESIDENT — The hour of six o'clock having arrived, the Chair, under the rule, will declare —

Senator GERARD — I move that the session be extended to seven o'clock.

The PRESIDENT submitted the question and it was lost.

Senator MCCARTHY moved that the Senate adjourn to August 1, 1877, at 10 o'clock A. M., whereupon the Senate adjourned to such time.

SARATOGA SPRINGS, WEDNESDAY, *August 1, 1877*—10 A. M.

The Senate met pursuant to adjournment.

George W. Reid, being recalled on behalf of the State, further testified.

Examined by Mr. OLMSTEAD:

Q. You were present yesterday in the Senate and heard the testimony of Mr. Lamb? A. Yes, sir.

Q. Was the report made by him in the testimony yesterday a correct report as to the condition of the Abingdon Square Savings Bank? A. It was.

Q. You heard this report? A. Yes, sir.

Q. And the description? A. Yes, sir.

Q. You heard some letters read written by yourself to the department? A. Yes, sir.

Q. Were the facts stated in those letters correct? A. Yes, sir.

Q. Did you, in examining this Abingdon Square Savings Bank, see there any government bonds? A. I did at the first examination; in 1873, I think it was.

Q. Look at that testimony of yours and refresh your memory? A. This was in 1875; there were more there at that time; at the examination made in 1873 there was.

Q. I observe in your report of December 1 and 2, 1873, \$21,045 of government bonds returned; do you recollect whether you saw them at that time? A. Yes, sir; they were there.

Q. The last report is on page 300 of the printed testimony.

Mr. CHAPMAN—Which report did you show him just now?

Mr. OLMSTEAD—The report of 1873.

Mr. CHAPMAN—Is the report you just showed him the report you asked him about last; is that printed here?

Mr. OLMSTEAD—The report of 1873 is not printed; it has been offered in evidence, however.

Q. By that report of 1873, your report, it appears there were 21,045 of government bonds; did I understand you to say that you saw these bonds at that time? A. Yes, sir.

Q. You wouldn't be likely to make a report unless you did see the bonds, would you; you were in the habit of seeing the bonds and having them produced? A. I saw the bonds, or they had a receipt from some banks; I must have seen the bonds, or else I would not have reported them; I do, in some cases, where certain bonds are placed as a collateral for a loan, and I have a receipt of the bank or the parties with whom they are, then I consider that the same as the bonds; but, in this case, I see there is nothing of the kind, and I must have seen the bonds; I see nothing to the contrary.

Q. You have no distinct recollection? A. No, sir.

Q. You did not report them without seeing the bonds, or seeing the receipt of the bonds? A. No, sir.

Q. How is it, suppose the bonds were not pledged as collateral, would you then require the production of the bonds? A. Yes, sir.

Q. Do you recollect whether you examined the books of the bank at that time, to see whether these United States bonds were entered on the book? A. I do not recollect whether I did or not; I presume I did.

Q. You do not recollect? A. No, sir.

Q. I observe in the report of December 1, 1873, an entry among the assets of "Cash on deposit in the Loaner's Bank, \$32,616.45;"

what did you see to satisfy you that amount was in the Loaners' Bank? A. We had a certificate from the bank; I always require a certificate from the bank where the deposit is.

Q. Did you examine the books of the Abingdon Square Savings Bank at the time, to satisfy yourself whether it was so entered on their books? A. I do not always do that; I usually examine the books.

Q. If the certificate of deposit was produced from a bank that you had no reason to suppose was other than a reputable bank, would you take it as so much cash? A. Yes, sir: the bank usually gives me the amount of cash in the various banks, and I verify it by certificates of the various banks.

Q. Do you remember, you swore the officers on the first occasion? A. I did.

Q. Who did you swear? A. I presume it was the secretary.

Q. What did he swear to? A. He swore to the correctness of the items that he had given him and the correctness of those examination blanks which are attached to my report, and that all statements he made were correct; and I usually supplemented, as I suppose I did in this case, with the question whether the securities that were then presented to us belonged to that bank, and that they had not been borrowed for the occasion; I usually add that to the question.

Q. Was that examination, under oath, taken down in writing? A. No, sir.

Q. It is not your habit to do that? A. No, sir; I merely, in a general way, swear them as to the truth of the statement they will make to me.

Q. You have examined the Loaners' Bank? A. No, sir; they refused an examination.

Q. I observe the safe and fixtures are put in this examination at \$2,040.17, state how you arrived at that valuation? A. Probably that was from their books, from it being an odd sum.

Q. That would be the cost price, wouldn't it? A. Yes, sir.

Q. You made a deficiency of assets of \$1,567.23, and of income, \$1,127? A. Yes, sir.

Q. When was the next examination made by you? A. In 1875, I think.

Q. In the examination of September 4, 1875, made by yourself, among the bonds and mortgages were \$1,166.20, did you inquire into the character of those bonds and mortgages at the time? A. Yes, sir.

Q. From the officers of the bank? A. From the secretary, Mr. Brown.

Q. What did he inform you in respect to it? A. In what respect?

Q. Did he state whether they were first or second mortgages? A. Always first mortgages; I never allow second mortgages.

Q. Did you particularly inquire whether they were first or second mortgages? A. I suppose I did, I usually ask the question.

Q. You do not recollect distinctly; you have no memorandum to show it? A. No, sir.

Q. Did you inquire by whom they were made and to whom? A. I saw them all.

By Senator GERARD:

Q. What mortgages were these; looked at when? A. November 4, 1875.

By Senator SCHOOMAKER:

Q. What do you mean, by "never allowing second mortgages?" A. I never, in but one or two cases, discovered any second mortgages.

Q. What do you mean by not allowing second mortgages? A. I would not count it as a mortgage; if I did, I put in as a sort of supplement to the assets.

Q. You mean you did not credit it to the bank? A. No, sir; if I found it there I would make up my assets without them, and then add it in a note that they held them as securities.

Examination continued:

By Mr. TRACY:

Q. Have you any memoranda as to the examination of these securities in 1875, upon which you made your report of November 4, 1875; have you any memorandum, or have you any recollection as to the examination of the bonds and mortgages upon which examination you made your report of November 4, 1875, which appears upon page 305 of the printed book? A. I have a memorandum of the number of mortgages, twenty-seven, and the amount, \$116,620.

Q. Have you any memoranda of the details of that examination? A. I have not.

Q. Have you any recollection on the subject, as to whether you looked into those mortgages or not? A. I did look into them and examined every one.

Q. Have you any recollection whether you saw any of the certificates of lawyers or abstracts of title in connection with them? A. I think I did.

Q. Have you any recollection, or is it only a surmise? A. I had in 1873, a certificate from the attorneys.

Q. This is 1875? A. I say I had at that time a general certificate

and those that were not certified to during the two years I had another certificate for, I presume; that is my usual course; I probably had certificates to them all.

Q. Then you merely stated from probability, without recollection or memoranda? A. Yes, sir.

Q. I want to know, when you examined these mortgages, if you could tell from the mortgages themselves whether they were first, second or third mortgages? A. No, sir; but we usually have the abstract.

Q. Therefore, unless you have an abstract or certificate of a lawyer, a respectable lawyer, that these are first liens there is nothing in the mortgage itself to show it? A. Certainly not.

Senator COLE—I will ask the Senator how he could possibly know whether they are first, second or third mortgages upon the face of them?

Q. You say there are no second or third mortgages included in the \$116,000; how do you know that? A. I don't think there were.

Q. Have you no memoranda about it; no recollection? A. No, sir.

Q. How was it, in fact; how did it turn out? A. I do not know.

Q. Then, if there did turn out to be second or third mortgages included in the \$116,000, they would be there at the time; and there would be nothing to indicate that they were second or third mortgages unless there was the certificate of a lawyer; nothing in the mortgages themselves? A. No, sir.

Q. There was no deficiency reported at that time? A. No, sir.

Q. Subsequently, did the deficiency in the assets of the bank upon which it was subsequently wound up, depend, in a measure, upon any defect in title or security of these bonds or mortgages? A. I do not know.

Q. On page 301, which is a sort of a note in your report of 1875, and the substance of which note is included in a letter, I see these words: "It is said that all loans are well secured;" by "loans," what do you mean? A. Loans on bonds and mortgages.

Q. What did you imply in those words, that were well secured; did you examine them? A. They were read to me by the officers.

Q. Didn't you imply from those words that you did not make an examination? A. I did not make an examination of the property itself; I very seldom do.

Q. By the words, "well secured," then you referred to the value of the property? A. Yes, sir; it was represented to me by the officers that the mortgages were well secured; that the property was abundant to satisfy the claim.

Q. I refer you to page 306; in your letter to the department, you state as follows :

“NEW YORK, *July* 19, 1876.

“HON. DE WITT C. ELLIS :

“DEAR SIR—In January, 1874, the secretary of the Abingdon Square Savings Bank, in order to make a better show, entered a bogus deposit of \$10,000, and counted it as so much cash on hand. When I observed it a short time afterwards, I remonstrated, and he promised not to do so again. The same thing was done last January.”

Now, I want to ask you whether you communicated those facts to Mr. Ellis, one fact of the bogus check of \$10,000 on or about January 7, 1874, and also for the bogus check of Mr. Brown, the attorney, for \$5,000, in July 1876? A. I am not certain whether I ever mentioned the first one to Mr. Ellis; I may have done so in the conversation; the last one I did not observe until after the first of July; I have reported it.

Q. Then you reported it on or about the nineteenth of July? A. Yes, sir.

Q. You do not know whether you told him of the bogus check of \$10,000, written on or about January, 1874, or not? A. I do not remember distinctly whether I ever did or not.

Q. Are there any other letters on that subject? A. No, sir; none except that of the thirteenth of July.

The PRESIDENT — The counsel for the State will resume the direct examination of the witness.

MR. MCGUIRE — Mr. President, with much regret, and certainly very respectfully, I suggest that it seems to me that it is creating a false impression outside of this chamber to get into the newspapers, to have the witness examined upon an assumed set of facts, because when they get out for criticism in the newspapers they are taken as facts. Now, I have not heard it hinted or suggested from any quarter except from the questions of the distinguished Senator, that there are any defects in regard to these mortgages; but an examination has been conducted upon the theory that the mortgages of these banks were second third, or fourth mortgages, and that there must have been some great loss to the bank by reason of some assumed negligence in the examiner in not making the inquiry as to whether they were first, second or third mortgages. All this testimony, it seems to me, Mr. President, tends, when it gets into the public press, to prejudice the respondent in this case; and I respectfully suggest that the examination should be conducted upon facts which appear in the case. If there are any such things as second or third mortgages, the learned counsel for the State no doubt will produce them without assuming it in advance.

The PRÉSIDENT.—The Chair has no power to control the examination of witnesses by any Senator, but if, when any question is put, the counsel for the respondent makes any objection, the Chair will put the question to the Senate.

Mr. OLMSTEAD.—Mr. President, I will state to my friend that \$38,000 of these mortgages are bogus, and some of them second mortgages.

Mr. MCGUIRE.—If the proof comes out, then it is all right.

Re-direct examination of *George W. Reid* resumed :

By the counsel for the State :

Q. I notice by your report of December 1, 1873, that there are about \$21,000 of United States securities, as I stated before ; there is also \$39,216.30 cash, and in your report of November 4, 1875, there are no United States among the securities, among the assets, and only 9,378.99 cash ; now, will you be kind enough to inform the Senate if you inquired, at the time of the last examination, what become of that difference in cash ? A. No, sir ; I did not ; frequently their cash will vary from \$1,000 to \$2,000 or \$5,000 from one day to another in the purchase of stocks and bonds ; I never noticed the change of any cash from time to time, particularly from one examination to another, two years apart ; it is not supposed a bank is going to keep the cash on hand.

Q. In making the examination of 1875, you would naturally refer to the examination of 1873, would you not, in regard to the whole matter ? A. I probably did, but the difference in cash would make no difference.

Q. I see the bonds and mortgages in the report of 1873 are \$92,700 ; bonds and mortgages in report of 1875 are \$116,000 ; did you have any reason to suppose the excess of cash or not had been put into those bonds and mortgages ? A. I never inquired what became of the cash, for I never thought any thing about it.

Q. I come to your statement at the foot of the report, in which you say, "The officers have recently exchanged real estate in foreclosure in Brooklyn, for other property there;" state what you discovered ? A. I was told by the officers they had foreclosed a mortgage—bid it in themselves—and, in order to do better with the real estate, they had exchanged it with some party in Brooklyn for a large number of vacant lots ; those lots had been sold to certain parties and building loans made on them and mortgages taken, and those mortgages were part of this \$116,000.

Q. You understood they had made building loans ? A. Yes, sir ; as many banks are now in the habit of doing ; my remark in regard to the illegality, or whatever expression I used there, referred to that

exchange of real estate which I, at that time, supposed was not allowed by law ; I did not consider it precisely a legitimate operation.

Q. You stated that you saw these bonds and mortgages ; did you observe that any of them were made by the wife of the president of the bank ? A. Yes, sir ; I think there were two of them ; one of \$17,000 and one of \$11,000 ; this property had been purchased in the name of the president, as I understood it, and he, I do not know whether he had not taken the title in the name of his wife ; I am not certain about that.

Q. And then she turned round and borrowed money of the bank, on property, didn't she ? A. That I do not know.

Q. She made the mortgages ; the inference was she got the money ? A. I think she made two mortgages.

Q. She made the mortgages ; how many mortgages of that character did she make ? A. I think there were two ; I am not certain about it.

Q. You stated at the end of a note attached to the examination of November 4, 1875, the following : " It is said that all loans are well secured ; the apparent surplus is \$4,424 ; to increase the security to depositors, trustees have given their note to the president for \$10,000 ; " what did that mean ? A. There were notes signed by the various trustees, most of them for \$1,000 each ; there may have been some for \$500 ; I think there were none over \$1,000, payable to the president and to indemnify him, as it was told me, against any loss that might occur on the trade of this property.

Q. On the real estate transaction ? A. Yes, sir, and they considered that as security, too, for the depositors.

Examination continued :

By Mr. McGUIRE :

Q. Your first examination of this bank was in 1873 ? A. The first examination was in 1871, under Mr. Keyes' direction ; I helped assist in the examination.

Q. This was comparatively a new bank ? A. Yes, sir.

Q. Can you state when it was incorporated ? A. Eighteen hundred and sixty-nine was the date of the charter ; I do not know when they went into business.

Q. You examined in 1871, under Mr. Keyes ? A. Yes, sir.

Q. Your first examination under Mr. Ellis was in 1873 ? A. Yes, sir.

Q. I want to ask you what your rule is in the first examination of banks ; take the mortgages, for instance ; do you examine the mortgages on your first examination of a bank, critically and with care ?

A. Yes, sir; very thoroughly, as to the title, certificate of counsel and valuation, as far as we can, from the certificate of the bank officers.

Q. At your first examination, you did not rely fully upon certificates of counsel; you required an abstract, didn't you, from the register's office? A. We did not require it, but the banks generally have them among their papers.

Q. And you examined that abstract? A. Yes, sir.

Q. After you examined the abstract, then you looked for the certificate of the counsel the bank has employed? A. Yes, sir.

Q. It would be impossible for you to go around New York and inquire into the respectability of a lawyer whose name is attached to it? A. Yes, sir; I do not do that.

Q. You assume that the counsel that signs the paper is a respectable lawyer? A. Yes, sir.

Q. You do not regard it as a part of your duty, as bank examiner, to go around and inquire into the character of lawyers? A. Not at all; I have never done so.

Q. To see what effect should be given to their certificates? A. No, sir.

Q. Now, on your second examination, if you find on your first examination is a good security, and when you come to examine it a second time you refer to your first examination and check that mortgage off, I suppose? A. Yes, sir; I very seldom examine it again.

Q. If you find it, on your first examination, a good security, there is no necessity of your making these extended inquiries, if the bank has the same mortgage, upon your second examination? A. Certainly not.

Q. But if you find any new mortgages, upon your second examination, then state what course you pursue? A. I take the first course I would in the first examination; examine them very critically; require the abstract, if they have one, or certificate from the counsel, and generally have the date of the application, with the certificate of the trustees making the examination, and their consent to the loan.

Q. You make these inquiries of the officers of the bank? A. Yes, sir.

Q. If you are satisfied with the statement the officers of the bank make, do you put them under oath? A. I usually put them under oath when I first commence the examination, to see that all the statements they make are correct.

Q. Then, with the abstracts and certificate, and oath of the officers, you regard that you have done all that prudence or caution requires? A. Certainly.

Q. Now, in regard to the funds in a bank, in the Third Avenue Savings Bank, for instance, it depends upon the time of year in regard to the amount of funds that they have on hand, don't it, in a measure; the cash, I mean? A. Not entirely, although most banks accumulate money before dividend day.

Q. All these banks declare a semi-annual dividend, don't they; savings banks? A. Yes, sir.

Q. They have to provide for this dividend day? A. Yes, sir; not only for the interest, but many depositors are changed after the dividend day, within a few days, and they have to be provided for.

Q. And the amount of cash that any savings bank has on hand must change and vary owing to the circumstances, conditions, and business of the bank? A. Certainly.

Q. If you should go on the first day of June into a bank when it is providing for its semi-annual dividend say on the 1st day of July, and find a comparatively large amount of cash, and then come on the first of August, and find but a small amount of cash, there would be nothing in that circumstance to attract your attention or create any suspicion? A. Not at all; I do not know that it would change at any other time, because these large amounts are changed by some payments made in or money loaned out; it is nothing unusual.

Q. You spoke about the exchange of real estate; I don't know as I understood it; the bank had a mortgage upon a piece of real estate, and it was foreclosed and bid in by some of the officers of the bank? A. Yes, sir.

Q. Who was the person or officer of the bank that bid that piece of property in? A. I do not know.

Q. I have understood you that the property was in Brooklyn? A. Yes, sir.

Q. That was sold at the mortgage foreclosure? A. Yes, sir.

Q. Some one, officers of the bank, I suppose, must have taken the title of the property after the foreclosure sale; can you state who that was? A. I do not know; I don't know that I looked at that.

Q. What was the president's name at that time? A. Charles A. Shoemaker.

Q. Where does he reside? A. In New York.

Q. He did not reside up in Kingston? A. No, sir.

Q. How long did the bank hold that property after the foreclosure? A. That I do not know.

Q. I did not know but your memorandum might show that at one time they held the property, and a subsequent time held another piece? A. I did not take any memorandum.

Q. You learned the fact that they had exchanged the property bid in at the foreclosure sale for some vacant lots? A. Yes, sir.

Q. At what place in Brooklyn was this property that was bid off?
A. I do not know.

Q. You have spoken of some notes given to indemnify depositors as against any contingent loss upon that exchanged property, as I understood it? A. It was considered it was to indemnify the president against any loss; I think they were given to secure the depositors against loss.

Q. That amounted to \$10,000? A. I think it was exactly \$10,000.

Q. You saw the note in the bank? A. Yes, sir.

Q. At what time did you see those notes in the bank? A. At November, 1875, November fourth and fifth; I didn't get away on the fourth and I saw it again on the fifth.

Q. You made another examination, I think, in August, 1876? A. Excuse me; it was December, 1873; I think that was—no, it was December, 1875.

Q. Did you make another examination in 1876? A. Yes, sir.

Q. Did you find those notes there then? A. No, sir; I think there were none of them there.

Q. That was the time that you made the report to the bank department, who handed the bank over to the Attorney-General? A. I went up to Albany on the tenth of August with my report of the examination on the ninth, and the bank had already been put into the hands of the Attorney-General.

Q. Before you got there with the last report? A. Yes, sir.

Q. You had written to the superintendent from New York before you went to Albany? A. I had not thought I would make the examination; I think I was out of town when the examination was made with Mr. Lamb, between Mr. Lamb and an officer of the bank; the attorney who went up to Albany; he came to my office and found I was out of town, so that I could not make the examination on the day they proposed; as soon as I returned I saw them, finding Mr. Lamb's letter at my office; they called upon me, I think, the same day I returned; I then went up with him, and arranged to go up on Monday—this was on Saturday—to go up on Monday and examine the bank; in the meantime they were to put in the \$10,000; I went up and found things were not as I expected; I made a personal examination and continued it on the ninth and then made my report.

Q. At that time the bank was in the hands of the Attorney-General? A. Yes, sir; Mr. Lamb was not at Albany, but the clerk told me it had been put in the day before.

Q. You spoke about some mortgages given by the wife of the president, explain that? A. I have no memorandum, but I recollect of two mortgages.

Q. Can you state upon what property? A. It was on the Brooklyn property, I think.

Q. The vacant lots? A. I think it must have been; I do not remember.

Q. Your understanding of it is that in the exchange of the property for Brooklyn property, the title to the vacant lots were taken in the name of the president's wife and she gave back to the bank mortgages upon the property; is that your understanding of it? A. That I do not know.

Q. Your understanding was that the two mortgages given by the wife were upon this Brooklyn property? A. I think they were.

Q. What amount were these two mortgages, either as a whole or separate ones, if you have any memorandum? A. I have no memorandum; I have no recollection of it.

Q. You have no memorandum; you have no recollection of the mortgages given by the wife of the president of the bank? A. No, sir.

Q. Can you state, Mr. Reid, what the amount of the original mortgage was that was foreclosed? A. I do not know.

Q. Can you give us any information as to the value put upon those vacant lots by the bank? A. No, sir, not the vacant lots.

Q. Those vacant lots were not put in by the bank if sold, or by you as an asset of the bank? A. The mortgages were put in; there were other parties that the property had been sold to, I see from my memorandum of August; I have here a half dozen mortgages or more.

Q. Do you understand that these vacant lots had been sold to other parties? A. A portion of them had; I think some half dozen.

Q. Those parties also gave mortgages back to the bank? A. They went on to build; as they progressed with the building the bank advanced them money to complete them — what is called the builders' loan.

Q. What security did the bank have? A. A mortgage.

Q. A mortgage for the purchase-price of the land and the amount of the builders' loan? A. The usual course is to give it for—

Q. Is that so in this case? A. I presume so; to give a mortgage for a round sum, including the purchase-money, and, as they make advances to add it to the amount until it reaches the face of the mortgage.

Q. They take a mortgage for a gross sum? A. Yes, sir.

Q. And that gross sum includes the price of the lot, and what was in any way before advanced by the bank? A. Yes, sir.

Q. Did you examine sufficiently to see that these two mortgage, given by the wife were the first two liens on the property, or what was your examination in that respect? A. That I do not remember; I do not remember distinctly what it was.

Q. Do you know this, Mr. Reid, that if there had been any thing in the examination of these mortgages which would have been out of the ordinary course that the bank was not having a proper security, it would have attracted your attention? A. Certainly.

Q. And is not the fact that you made no memorandum or entry upon your minutes of the examination of any thing out of the usual course, evidence to you that you examined it sufficiently to satisfy yourself that it was a good security? A. I suppose it was; it was as far as the papers were concerned.

Q. Can you call to mind when you saw an abstract of title of these Brooklyn lots; the vacant lots? A. I do not remember distinctly.

Q. I will read a sentence of your letter of July nineteenth; "the attorney is out of the city, and as soon as he returns next week I will see him;" were you, at the time, in communication with the officers of the bank during the month of July, 1876? A. That was the last examination; yes, sir.

Q. Had you been in communication with them prior to the date of his letter? A. Oh, I have seen them two or three times between my examinations.

Q. Is that the nineteenth of July? A. Yes, sir; that is in reference to their semi-annual report for July; I went to see the attorneys.

Q. What was the purpose and object of your interview and communication to the bank officers? A. Mr. Brown, who had been the attorney, and I suppose was attorney at that time—his brother was the secretary of the bank—his brother was out of the city and the papers that I found I had, the report had not been completed, I found these deficiencies in the report, which I directed the clerk not to complete, not to complete the report until I saw Mr. Brown; I then went down to see Mr. Brown; I think he was out of town the first time, but at any rate I saw him afterwards and called his attention to the irregularities.

Q. Then at the date of this letter, of July nineteenth, the bank had not completed its report; you had not completed your examination? A. No, sir; the bank had not completed their July report.

Q. But you had not completed the examination which you was making at the time you had the said interview with the attorney. A. I had not made my examination then; it was merely an informal looking over of the books; I did not do it until August.

Q. Was not your purpose in these interviews with these bank officers to induce them to put the bank upon a sound footing, to correct any irregularities, and to make good any deficiencies? A. Yes, sir.

Q. That was your object? A. Yes, sir.

Q. In going to see them? A. Yes, sir.

Q. But you became satisfied by the time of the date of the letter July 19th, that the purpose you had in view would not be accomplished by the bank officers? A. I was satisfied they would not do it.

Q. And hence you wrote the letter to the department on the date mentioned? A. Yes, sir.

Examination continued :

By Mr. OLMSTEAD :

Q. Mr. Reid, will you be good enough to inform us how you discovered this bogus deposit of \$10,000, and these fraudulent checks of \$24,300 mentioned in your letter of July 19, 1876, to the department? A. At one of my visits to the bank, I looked over their receipts and disbursements, as my usual custom is, and I noticed the last days of June and December the deposits were largely in excess of the usual amount; and also immediately after the dividend day, June or July, I found that there was a decrease of deposits; then I looked at the cash-book and found who those deposits had been made by and who the draft had been made by, what account had been drawn upon; and I saw they were in the name of this officer of the bank; then I inquired why it was that they were made.

Q. Who did you inquire of? A. Of the secretary, Mr. Brown.

Q. Did he give you the information contained in this letter? A. In part; in part I discovered it from the books.

Q. He acknowledged it? A. Yes, sir; he told me how it was done.

Q. Did you trace the trustees' notes that you have alluded to in the bank in 1876? A. They were not there in 1876; I saw them in 1875.

Q. In whose possession? A. The bank's possession; they were there among the papers but not entered on the books, merely as a sort of collateral to the real estate transactions.

Q. You found no entry upon the books in reference to them? A. No sir.

Q. Are you in the habit, when you examine banks, of inspecting the minutes of the board? A. I did at times; not always.

Q. Did you in this case? A. I do not think I did.

Examination continued :

By Senator BRADLEY :

Q. What did you understand was the object of giving and taking these \$10,000 notes? A. To indemnify the president so that he would not lose any thing by this transaction, the transfer of the real estate to him.

Q. To him personally ? A. Yes, sir ; to be sold for the benefit of the bank, to meet those builders' loans.

Q. Did these notes go into the assets ? A. No, sir ; they were not counted, therefore I made no memoranda.

Q. What was the amount of those two mortgages given by the president's wife ? A. I do not remember ; I have nothing to show what the amount of the different mortgages were.

Q. Did you take any means to ascertain the character and the value of the property ? A. No, sir.

Q. Covered by these mortgages. A. No, sir.

Q. Did you in your report, in any manner state that there were two mortgages given by the president's wife ? A. I do not think I did ; I merely referred in general terms to the transfer of property ; the exchange of property.

Q. That you found two mortgages given by the president's wife to the bank was regarded by you as a circumstance that required some examination ? A. Yes, sir ; I inquired why they were there, and it was represented it was in reference to this exchange of property.

Q. Have you been in the habit of requiring the production of clerk's certificates to show the liens upon the property ? A. The abstract.

Q. Yes, sir ? A. They do not have any in New York ; in the country they do, but there are searchers in New York who make the searches ; it is their special business.

Q. You are in the habit of having the certificate of the clerk showing that the mortgage is the first lien ? A. They never give them in New York, but in other places they do.

By Mr. McGUIRE :

Q. In New York you are governed exclusively by the certificate of counsel which the bank employs. A. Yes, sir.

By Mr. TRACY :

Q. Does not the abstract which the counsel furnishes always have attached to it a series of searches from the clerk's office, which show the history of the title ? A. Generally does ; if it is a full abstract it does.

Q. An explanation of the whole thing by the attorney and the searchers are there ? A. Yes, sir.

Q. It contains the certificate of the clerk, which supports its truth ? A. Yes, sir ; each searcher certifies to his branch of the business.

Q. Those clerks are deputies in the office ? A. Not always ; they are, except in the tax office, but in the Croton department they are different.

Q. In the county clerk's office and in the register's office they are signed by the register or his deputy? A. I have not noticed that; I noticed they were generally signed by the searchers.

By Senator St. JOHN :

Q. I would like to inquire whether the appraisal of this property, which was mortgaged, if the appraisal of it was filed with the mortgage that was given by the wife of the president of this bank, and to understand whether there was an appraisal? I do not distinctly remember whether there was or not.

Q. You do not remember that fact? A. No, sir.

Q. It is usual that appraisals are found among the papers? A. Yes, sir.

Q. Showing that the property is worth twice the amount of the mortgage? A. Yes, sir.

Q. In this case you do not remember of any such thing? A. No, sir.

By Senator GERARD

Q. When you do make an examination, do you make minutes in a book of your own? A. No, sir; only the result.

Q. What is that little book that you have in your hand; a book of original entries made at the time? A. No, sir; this is copied from my report; merely an abstract of the standing of the bank; to keep the run of all the banks in the State and know what they are.

Q. You did not make any memoranda in reference to what you did in reference to the examination or what you saw? A. No; only what I sent to the department.

By Senator WAGSTAFF:

Q. You always see there is an abstract and searches? A. Yes, sir.

Q. Do you always insist upon having a full abstract? A. No, sir.

Q. What do you take generally? A. I take the attorney's certificate; we always get the abstract wherever we can; some few of the banks have a separate certificate attached to each mortgage; that we have tried to get them all to do.

Q. If you cannot get a full abstract you take a certificate. A. Yes, sir; we pursue the best possible course we possibly can under the circumstances.

Q. Would you not consider a full abstract the best thing you could have? A. A full abstract with the attorney's certificate that it is correct; I would like that in addition, for something might be omitted in the abstract, which I have found sometimes.

By Mr. McGUIRE :

Q. That is the clerk or searcher might possibly make a mistake ?
A. Yes, sir.

Q. There are instances where the searchers make mistakes, I suppose ? A. There have been a few.

Mr. TRACY — Mr. President, I beg to say that in the early stages of this investigation we desired the testimony of Mr. John B. Sisco, who was unwell, and who could not then come. He has arrived here this morning, but can only be here to-day, and I submit whether it might not be well to allow the testimony to be given at this moment, interrupting the proceedings for that purpose. It is very brief and relates to the Third Avenue Savings Bank. If I can call him now I would like to do so.

The PRESIDENT—The Chair knows of no rule to prevent the counsel calling the witness in the ordinary way.

John J. Cisco, as witness on behalf of the State, being duly sworn, testified as follows :

Examined by Mr. TRACY :

Q. Where do you reside ? A. New York.

Q. Did you receive a call from Mr. Ellis, Superintendent of the Banking Department of this State, in the summer of 1875 ? A. Yes, sir.

Q. About what time was it ? A. I think it was May or June, 1875, sir.

Q. Was there any conversation between you and him in relation to the Third Avenue Savings Bank ? A. There was a general conversation in relation to that bank.

Q. Will you please state what the conversation was ? A. Mr. Ellis said the Third Avenue Savings Bank was somewhat embarrassed, and desired to know from me what the effect would be of closing it up ; I answered him that the community was very much excited at that moment by several failures, and gave him that of Duncan, Sherman & Co., and that it was important he should exercise a wise discretion in relation to what he should do.

Q. Did you tell him, sir, that it would be very inexpedient to close it then ? A. I did not, for the simple reason I did not have any facts before me in relation to the matter.

Q. Repeat that ? A. I did not tell him, for the reason I say that I had no facts whatever before me, no figures in relation to it, and I did not, of course, know the condition of the bank.

Q. Did he inform you that the bank was insolvent ? A. He did

not, sir ; had he so informed me, I should have regarded it as important that it should be closed up.

Q. Did he inform you that the bank's assets were \$215,000 less than their liabilities ? A. He gave me no figures whatever, sir.

Q. Do you recollect the day of the Duncan, Sherman & Co. failure ? A. I do not recollect the precise day ; I think it was in June, it may have been in May ; I think it was in June.

Q. Do you recollect whether this conversation was before or after the failure of Duncan, Sherman & Co. ? A. It was after.

Q. That was the twenty-seventh day of July, I believe you had but one interview with Mr. Ellis that summer ? A. But one, sir.

Q. That is set down as having occurred on the twenty-seventh of July. A. I am not sure of the time ; it was in the summer of 1875.

By Mr. TRACY :

Q. Did Mr. Ellis call on you specially in regard to this matter ? A. I suppose that he called with special reference to this matter ; he had not been in the habit of calling at my office ; I have seen him several times before.

Q. Did you have any transactions with him ? A. None whatever ; I never had any transactions of any kind with him.

Cross-examination of Mr. *Cisco* :

By Mr. MCGUIRE :

Q. Mr. Cisco do you not assume to give the precise language used by Mr. Ellis and yourself at the time, I suppose ? A. I give my remembrance.

Q. The substance as you now remember ? A. The substance, as I now remember.

Q. Did you know at the time, Mr. Cisco, that the only way the bank could be closed up was for insolvency ? A. I was not aware of it.

Q. Do you know the fact that a corporation can be closed up only for insolvency ? A. I do.

Q. Or for a violation of its charter in some way ? A. We have had a good deal of evidence of that recently.

Q. Does not the fact that Mr. Ellis asked you what to do stating that the bank was in trouble and your advice to him to proceed with caution, in consequence of the excited state of the public mind, call to your attention the fact that there was talk about the insolvency of the bank ; to put it in another form : If the word " insolvency " was not mentioned, does not the fact that he was talking to you about closing up the bank now call to your mind the fact that there were some

words used by Mr. Ellis, conveying to you the impression that the bank was insolvent? A. The impression conveyed upon my mind was that there was an embarrassment; there may be an embarrassment without an insolvency.

Q. But didn't you know that for a mere embarrassment—in order to make a discrimination between the words "embarrassment" and "insolvency"—that for a temporary embarrassment the bank could not be wound up? A. I did not know what his powers were; I presumed he knew his duty and I so told him, and that he knew what his duties were.

Q. You advised him as to whatever inquiry he did make or made, you advised him, on account of the excited state of the public mind, caused by the recent failures, to proceed with a good deal of caution, did you not, Mr. Cisco? A. I did; I said that he should certainly, at a time like that exercise a wise discrimination, wise caution; I thought it was proper advice to give him.

Q. Did Mr. Ellis make any reference to you as to what effect the closing up of the Third Avenue Savings Bank at that time would have upon other savings banks of the city? A. He asked me what effect it would have; I said the natural effect would be to make a run upon other savings banks.

Q. That would be the natural effect? A. At the time.

Q. At the sensitive state of the financial mind at that time the natural effect would be of causing a run upon other savings banks, would it not; extended further, if there had been a run upon this savings bank, caused by the procedure of the superintendent at that time, would not that panic have communicated itself to other financial institutions of the city? A. It might be or might not be.

Q. But to *you*, as having had a large acquaintance with financial institutions, what would be your judgment if there had been a large run upon the savings banks of the city at the then sensitive state of the public mind; would not that have communicated itself to other financial interests? A. It might have, certainly.

Q. And the consequence of the general distrust thus created would have been, in its nature, quite disastrous, would it not? A. If you had had a run upon all the savings banks of New York, why of course the effect would have been disastrous upon other interests, but that was a thing not likely to occur.

Q. The superintendent then, with this state of public feeling, if he would act with caution and prudence, and a little delay even, to ascertain what the effect of his action might possibly be upon the public mind, would you regard it as prudent, just and wise on his part? A. Before I could give an answer to that question, I should want to know the condition of this institution, I knew nothing about that at all; I had not a single figure from the gentleman.

Q. The simple fact was that the bank was embarrassed, that is, could not go along with its business? A. That was not stated that it could not go along with its business, because if it could not go along with its business, it would be closed up at once.

Q. What construction do you put upon the term "embarrassed?"

A. There are many institutions that have been embarrassed, and so have individuals, who have yet overcome their embarrassments; it might have been a temporary embarrassment for a day or a week; when you find this embarrassment with individuals or institutions, they need a little leniency from creditors to carry them over; it may require something of the kind; it may require other things.

Q. Immediately closing upon an embarrassed individual or embarrassed institution would be disastrous to the individual or institution?

A. Undoubtedly.

Q. How long did this conversation last between you and Mr. Ellis?

A. It may have been two or three minutes; it was very short.

Q. At this time you had no personal acquaintance with Mr. Ellis?

A. Oh, yes; I had met him upon several occasions.

Q. You never had any business transactions with him? A. No, sir

Q. Did he state to you at the commencement of that interview that he had come to consult with you as to your judgment about immediate procedure under the circumstances? A. He did not, sir.

Q. In other words, that he wanted your opinion as to the effect of his action; wasn't that it? A. He came in and stated that he had been talking with two or three gentlemen in Wall street, in relation to this matter.

Q. That he had talked with other financial men in Wall street? A. And wished to talk with me.

Q. Wished to know your views, or your opinion, upon the effect upon savings banks or the financial condition of New York? A. I stated that he wished to know the effect which would be produced if he closed up the bank.

Q. You made the reply that you have stated? A. Yes, sir.

Q. In this conversation, lasting for a period of about fifteen minutes, there must have been a good deal said at that time that I suppose you do not now remember; you merely give the result, as you now remember it, of the last interview? A. I am very apt to remember what took place in a conversation of that kind; I say it was not more than fifteen minutes; it may have been much less, but it didn't occupy over that.

Q. But you see, Mr. Cisco, the words you have used would not take more than half a minute, simply the words that you have given, that you and Mr. Ellis spoke; therefore, this must have been an epitome of the whole conversation? A. I differ with you in its not taking

more than half a minute ; we have been at least fifteen minutes in repeating.

Q. I say, to repeat what you said, Mr. Ellis, asked your opinion as to the effect, and you advised him to exercise a wise discretion? A. It is all I could do ; had he told me he had come to consult with me as to his action, I should have required figures, facts, before I should have given a proper opinion.

Q. I do not understand that Mr. Ellis called upon you to get your opinion as to the condition of the Third Avenue Savings Bank ; if I understood you correctly, Mr. Cisco, it is that he called upon you to get your judgment as to the effect of closing the Third Avenue Savings Bank upon the moneyed interests of New York? A. I have given you my answer as to that.

Q. You say that Mr. Ellis told you that he called upon two or three gentlemen in Wall street ; did he mention those gentlemen's names? A. Yes, sir.

Q. Who? A. John A. Stewart, of the United States Trust Company ; William H. Macy, of the Seaman's Savings Bank ; those were gentlemen connected with large moneyed institutions ; I think they were the only ones he mentioned at that time.

Q. Did he mention Mr. Morrison's name at that time? A. I think not.

Q. The gentlemen whose names he mentioned were gentlemen connected with large moneyed institutions in the city? A. Yes, sir ; Mr. Stewart's is the largest in the country.

By Senator ST. JOHN :

Q. It is in evidence that this bank was examined by Messrs. Reid and Aldrich, examiners of the Bank department, in March, 1875, some months before this conversation you had with Mr. Ellis ; they reported at that time a deficiency of assets of \$219,261.81, and a deficiency of income of \$44,791 ; I want to ask you, if the figures of that report had been shown to you, and your opinion had been asked as to the advisability of keeping this bank along and bridging it over, as it is talked about, or winding it up, what would you have said? A. I would have said it was his duty to wind it up immediately.

Examination continued :

By Mr. MCGUIRE :

Q. Would you, Mr. Cisco, have advised the superintendent to have wound it up immediately if you had been satisfied that it would have caused a run upon all the savings banks of the city of New York? A. Well, sir, I do not think it would have produced any such effect.

Q. I am asking a hypothetical question ; if you had been satisfied that it would have produced a run upon the savings banks of the city of New York would you then have advised the closing of the bank if you had knowledge of these figures? A. That is a question, sir, which I do not think I am called upon to answer ; if I had been in his position I should have exercised, as I say, a wise discretion.

Q. By producing such a state of things as you state, a run upon all the savings banks, you may produce a greater calamity than the mere loss of that bank? A. That is the very question, if you have looked at the subject or given it any thought, that Mr. Ellis, as at the head of the Bank Department of this State, that was the very question that he was to determine, what effect it would have upon the public interest if he did close it up ; I do not believe it would have had any such effect.

Q. That is a mere matter of opinion? A. You were asking my opinion.

Q. I am assuming a question? A. It is assuming a question for me to answer.

Q. Can you state now, Mr. Cisco, if you had been Superintendent of the Bank Department what you would have done, not looking back, but at that time looking forward ; can you have any idea what you would have done? A. Not the slightest, because I am not apt to make up my judgment without looking and thinking about it.

Q. In other words, a man's insight and a man's hindsight are a great deal better than his foresight ; you see a thing a great deal better after it is done than before it is done? A. We want to see something to act on.

Q. We can all be very wise after a thing is done? A. We are all very wise then.

By Senator ST. JOHN :

Q. I desire to ask whether this Third Avenue Savings Bank, for a year or two before this winding up of that bank, was not regarded as a very weak bank? A. It was certainly not regarded as a very strong bank.

By Mr. TRACY :

Q. Mr. Cisco, you have been in New York when there has been a run upon the savings banks? A. Oh, yes, sir.

Q. In those cases did it become general to all savings banks? A. It did not, sir.

Q. Did such a run as that upon one or more savings banks effect Wall street in the great monetary transactions? A. Not greatly, sir ; of course it produced some little excitement — a mere ripple.

Q. Mr. Cisco, putting yourself in the position the counsel placed you, supposing you were in his place (the Bank Superintendent's), and you had a bank that was not able to pay the existing depositors in full, would you think it right in him to allow that bank to go on and to take money from new depositors who could not get it back, from public or private reasons, or any reasons?

MR. CHAPMAN — Mr. President, I submit that is a matter of opinion, and in order to examine the question Mr. Cisco must be placed in Mr. Ellis' position, being familiar with the law and all the circumstances surrounding it, which it is impossible for him to do.

THE PRESIDENT — I think the question may be asked; the counsel for the respondent has asked a question of such a character.

Q. If in that case it were known to you that the bank was \$200,000 and odd short its assets, and a large sum short of its income being equal to its assets several months before, and at the time was insolvent and unable to pay its existing depositors in full, would you have deemed it proper for any reason, public or private, to go on and take money from other new depositors who could never get their money back again?

Senator GERARD — Mr. President, I object to that. The objection is that this is the very issue we are to pronounce upon; it is a matter of surmise; it is a matter to be drawn from all the facts of the case; it is a hypothetical question.

THE PRESIDENT — The chair thinks it competent.

Mr. McGUIRE — Mr. President, my interrogatory was put in answer to the question put by Senator St. John; I had proceeded in that line of the examination until the Senator read from the book the condition of the bank, and asked Mr. Cisco what he would have done if he had knowledge of those figures?

The President submitted the question to the Senate, whether the question should be put to the witness, and it was decided in the negative.

By Mr. TRACY:

Q. Did you have any conference with the other gentlemen mentioned by you on that subject at that time? A. Not at that time.

Q. Can you state whether there was any feverish excitement following the failure of Duncan, Sherman & Co., and before it, along that period? A. Nothing very serious; of course the failure of such a firm as Duncan, Sherman & Co., would naturally startle the community, and produce, for a time, a ripple.

Q. From March to that time there had been nothing serious of that kind in the market? A. Nothing serious.

Frank Thompson, a witness called on behalf of the State, being duly sworn, testified as follows:

Examined by Mr. OLMSTEAD:

Mr. OLMSTEAD — Mr. President, this witness is in reference to the Abingdon Square Savings Bank.

Q. Where do you reside? A. New York city.

Q. What is your business? A. I am a lawyer.

Q. Are you the receiver of the Abingdon Square Savings Bank?

A. I am.

Q. When were you appointed? A. In August, 1876.

Q. August tenth? A. The order of receivership I received on August eighth; I think it was closed up on the tenth.

Q. Will you please state what assets of this bank you received as receiver? A. After taking possession of the bank I found the books called for \$43,800 of bonds and mortgages; there were bonds and mortgages of that amount nominally; there was one of \$13,000 and another of \$11,000, made by Mrs. Shoemaker, the wife of Charles A. Shoemaker.

Q. What were the amounts? A. Thirteen thousand dollars and eleven thousand dollars each; there were three of \$3,600 each, made by the assistant secretary, Charles L. Burnham.

Q. State who they were made to? A. Those were made to the bank; there was a bond and mortgage made by Frank Otard and wife of \$6,000, and another by Mr. Trimble of \$6,000, making \$43,800.

Q. Were all these first mortgages? The Shoemaker mortgages were second loans.

Q. How much did they amount to? A. Twenty-four thousand dollars.

Q. When were they given? A. In November, 1875, if I recollect correctly; I cannot give the date; it was some time in November; I have the loan-book here which gives the precise day.

Q. Get the book; give the date? A. The date of the loan by the loan-book appears to be the 8th of November, 1875.

Q. That is a loan on a second mortgage? A. The two Shoemaker mortgages, one of \$13,000 and another of \$11,000; no, I am mistaken about that; the Shoemaker mortgages are the 31st of August, 1875; the Burnham mortgage is November 8, 1875.

Q. Those by Mr. Shoemaker to the bank are \$11,000 and \$13,000, made August 21, 1875? A. Yes, sir; that is the date by the loan-book.

Q. Were these first or second mortgages? A. These were second loans in part.

Q. How many of them? A. Two; one of \$13,000 and one of \$11,000.

Q. There were three mortgages by the secretary of the bank to the bank; what were the dates of those? A. Those appear in the loan-book as November 8, 1875.

Q. Those amounted to \$3,000 and \$6,000? A. Three thousand six hundred dollars each, making \$10,800.

Q. What other mortgages were there? A. The mortgage I spoke of, made by Mr. Otard, of \$6,000; that was in process of foreclosure at the time I was appointed.

Q. How much was that? A. Six thousand dollars.

Q. And another made by Mr. Trimble of \$3,000? A. That was also in process of foreclosure, and the bank was entitled to a decree; the time for the defendants to answer had expired.

Q. Those were both first mortgages? A. Yes, sir.

Q. Were those all the mortgages? A. Yes, sir.

Q. What other property did you receive? A. The bank had title to four small houses in Prospect Place, Brooklyn, two-story frame houses, standing in a block, just alike; all those houses have been sold; they stood on the books for the amount they cost the bank; those amounts are various; in some cases there had been payment of principal, and above the amount of expenses and costs; they varied from \$2,500 to about \$4,000; the cost to the bank varied between those two figures.

Q. Was that the entire real estate? A. In addition to this, the bank had title to certain property, had deeds of certain property in Bridge street, Plymouth street and John street, which was foreclosed then as against Mr. Cassidy, and also against Mr. Boller; I found that property the bank had made a mortgage on to George W. Wilson, one of the trustees, and that the mortgage was held by the Hanover Bank, as collateral to a call loan of \$15,000, to the Abingdon Square Savings Bank; in addition to that property, in regard to certain Cassidy property, the bank's mortgage had been originally a second mortgage, and a bid-in under the second mortgage; and then the first mortgage was foreclosed, and they had bid it off under the decree of foreclosure, under the first mortgage; but they never completed the purchase, and they had paid the assessment, which, with the auctioneer's fees, amounted to \$2,095; that was afterward recovered; that, in addition to the furniture and fixtures, was all that were found.

Q. How about the furniture and fixtures? A. The furniture and fixtures consisted of ordinary furniture of a banking-room and safe.

Q. How much did that sell for? A. About \$600.

Q. How much cash did you find in the bank? A. I found \$970.55

in the cash vault; the balance in the Island City Bank, \$601.34; then there was a balance of loan in the Hanover Bank, which I collected some months afterward, which was \$1,049.

Q. You sold the fixtures? A. They realized about \$600.

Q. That is all you have realized except upon the real estate under the mortgages? A. Yes, sir.

Q. State what is the condition of those mortgages and what you have discovered in regard to them? A. In regard to the Shoemaker and the Burnham mortgages, both of them Mrs. Shoemaker and Mr. Burnham, make no claim to the property, and they both offered to execute deeds to me as receiver, and they executed such deed, and they delivered them in escrow; I have not accepted them yet, and nothing has been done with the property, although I have made offers; I have endeavored to sell it; it has been in the hands of brokers and parties dealing in property in that part of Brooklyn, but it has not as yet been disposed of—any of the property represented by either the Shoemaker or Burnham mortgages; the Trimble mortgage of \$3,000 has been foreclosed and the property sold; the Otard mortgage has not yet been disposed of, although he has a decree in foreclosure; we found, on examination, there was a very heavy assessment of taxes, and we offered it for sale, and it was knocked down at such figures as it would realize, something like \$2,000 to the bank; there was a heavy assessment upon it.

Q. And that has not been disposed of? A. The sale has not yet been completed.

Q. What was the number of depositors? A. Eight hundred and fifty-seven, I believe was the number.

Q. You have paid a dividend? A. Yes, sir.

Q. How much? A. Fifteen per cent.

By Senator WAGSTAFF:

Q. When did you find out that the Shoemaker and Burnham mortgages were second mortgages? A. I do not know when I first found it out; it was put in that form because Mr. Brown, the counsel, advised that as the better form and as obviating the difficulty that the bank could not buy real estate correctly; that was given as a reason for that course.

Q. Mr. Burnham was vice-president? A. Yes, sir; Beckman T. Burnham was vice-president; the man who makes the mortgages was his son.

By Senator BIXBY:

Q. Did you find any abstract or title of the property? A. Not in the bank.

Q. Or any certificate of the attorney? A. I had occasion afterwards to hunt up abstracts, and found some abstracts relating to this property not in full or complete; I found Mr. Brown, the attorney of the bank, had some abstracts in his office.

Q. None in the bank? No, sir; none relating to the property which the bank held at the time of its suspension; there were some without abstracts.

Q. Were any of those that you found second mortgages? A. The abstract which I obtained relating to these Broadway lots, upon which these mortgages are, simply describes the title down to the party from whom Shoemaker got title; it appears by that abstract that there were three mortgages on such a plot.

By Senator COLE:

Q. You had an attorney for this bank — an appointed attorney? A. Yes, sir.

Q. Counsel? A. Yes, sir.

Q. To whom all the business of the bank, the searching, etc., was submitted for his opinion? A. I do not know; I know Edgar F. Brown was one of the original incorporators, at one time a vice-president, and has been all along the attorney of the bank, and made a good many loans, etc.

Q. So that, if it were submitted to the attorney, the bank would receive his opinion as to the character of these securities, and whether they were properly drawn and were first or second or third mortgages on the property? A. I suppose he gave that information that he got from the records; they heard, however, I think, that there were former mortgages, because at the time they took these Broadway lots there were proceedings to foreclose, to foreclose on the first mortgage, and those proceedings were discontinued.

Q. In that case, if they were submitted to the attorney, of course, the abstract would remain with him rather than with the bank? A. I do not know what is the custom.

Examination continued:

By Mr. CHAPMAN:

Q. What is your business? A. I am a lawyer.

Q. Has it come within your observation that, in some cases, the abstract goes to the bank, and in some cases the attorney keeps the abstract; or have you not had any experience in that? A. Yes, sir; I have had a great deal.

Q. How is that? A. We make a good many loans on bonds and mortgages, and, ordinarily, we retain the abstracts in all the cases; appraisal, abstract, and every thing else.

Q. That is retained for future reference? A. Some clients prefer to have their papers with their counsel.

By Senator SCHOONMAKER :

Q. You spoke of private loans? A. Yes, sir.

Q. Is it not frequently the case that abstracts are borrowed by attorneys from institutions for whom they have made loans? A. Oh, yes, sir; I suppose that is sometimes done, although some of the larger institutions decline to have them go out of their possession; there is no particular rule about that.

Q. In regard to these mortgages, did you find any thing on the books that indicated that Mr. Ellis had had any knowledge or information from anybody that these mortgages were second mortgages or any thing of that kind? A. No, sir.

Q. Have you any means of knowing that Mr. Ellis had any information from his examiners, or otherwise, different from what his examiner reported to him? A. No, sir; I have not.

Q. Then the four houses in Prospect place were disposed of at auction? A. They brought, three of them, brought \$2,800, and one \$2,475.

Q. Two thousand eight hundred dollars apiece? A. Yes, sir; then there was an unfinished house which the bank had bought on foreclosure in Broadway; that was sold for \$1,300; that covers the assets.

Q. You did not mention how much you realized on the Trimble mortgage? A. We found there was an accumulation of taxes; net it was \$1,566.

Q. How much have you realized altogether out of this property? A. The total amount came in is about \$18,000, I think.

Q. Whether you realize more will depend somewhat on the issue in litigation? A. Yes, sir; the mortgage given to Wilson and held by the Hanover Bank was afterwards assigned to a person representing the trustees of the bank, they having paid the Hanover Bank that loan; they proceeded to foreclose the mortgage and we succeeded in defeating it, and I believe they are to appeal; if we succeed in defeating that the Cassidy mortgage will be an asset to some extent.

Q. How much is that worth? A. That is complicated by the fact that Cassidy has obtained an order for a resale of the property on the ground that the title the bank has is defective, that it was bid in under an arrangement by which he was to have it back at any time; he claims he owes the bank about \$10,000, and is entitled to have the title back on paying that amount, and he has obtained an order of resale, and had it confirmed at General Term; there is a very large

accumulation of taxes ; about as much as the property is worth ; it lies in a bad locality.

Q. Have you made any estimate of what amount of deficiency there will be in the bank ? A. It depends, of course, upon this litigation, somewhat.

Q. Have you determined from whom the president, Mr. Shoemaker, derived title to the portion they mortgaged to the bank ? A. Yes, sir ; the transaction was simply this : The bank owned property at the corner of Utica avenue and De Graw street, which they had obtained in foreclosure, and they exchanged that property with Mr. Otard, for some vacant lots on Broadway and Hulsey street, in the eastern district of Brooklyn, and a deed was taken, I think, in the first instance, to Mr. Shoemaker ; it was transferred through a trustee to his wife, and she made these mortgages.

Q. To the bank ? A. Yes, sir ; the Burnham mortgages ; the title was transferred to Mr. Burnham.

Q. He was the secretary ? A. Yes, sir ; the Burnham mortgages are on three little houses that have been built on a portion of the property which was taken from Mr. Otard in exchange.

Q. These Shoemaker mortgages, I understand you to say were second mortgages ? A. They were second mortgages, one of them a second lien entirely ; the other is second as to the principal plot ; but it is first as to the remaining portion of the mortgaged premises.

Q. State what the liabilities of this bank are as you have discovered ? A. That lithographed statement shows the amount due depositors was \$87,997.59.

Q. How much were the liabilities altogether ? A. If that \$15,000 was in, that would be another liability ; then there was a fund called the " sinking-fund ;" that was \$1,956.75.

Q. Now, the liabilities ? A. There was what was called a sinking fund where the balance was \$1,946.75 ; that, as I understand, is deposited by some directors, which was to be transferred to the depositors' account ; it was credited back in 1871, and these accounts still remain as a sinking fund.

Q. What is the total amount of liabilities ? A. Including this disputed item of \$15,000, I make it \$104,433.69.

Q. Did you discover among the assets of the bank any trustees' notes ? A. No, sir.

Q. Did you discover any United States bonds ? A. No, sir.

Q. You found no cash except the \$970.55 that you have stated ? A. Yes, sir.

Q. Have you examined the books to find out what dividends this bank had made ; had it made any dividends ? A. Do you mean to depositors, semi-annual dividends ?

Q. Semi-annual dividends? A. Yes, sir; and I examined them particularly since the passage of the law of 1875; the dividends were credited to the depositors at each half year—the first of January and the first of July at three per cent.

Q. Three per cent for the half year? A. Yes, sir.

Q. Were there earnings in the bank sufficient to pay those dividends? A. The books do not show any.

Q. There was not enough income to pay the dividends, as appears by the books? A. Yes, sir.

Q. That was exclusive of expenses? A. Yes, sir.

Q. What amount did you find due to depositors? A. Eighty-seven thousand nine hundred and ninety-seven dollars and fifty-nine cents.

Q. Did you have any assistants? A. Oh, yes.

Q. How many? A. I do not know that during that time I had but one; that was an accountant.

Q. How much time after these first four or five weeks did you devote to getting at the condition of the affairs of this bank? A. I had ascertained pretty thoroughly what the books showed at that time, and have from time to time got information; I can't state what portion of the time was devoted to that.

Re-direct-examination of *Frank Thompson*:

By Mr. OLMSTEAD:

Q. How long were you, Mr. Thompson, after you commenced looking at the books of the bank, discovering its general condition? A. I should think it was two or three weeks.

Q. Did you discover any false or fraudulent entries of the books? A. There was a good deal of difficulty in making their cash come out right; balance of about \$6,100 cash on their books, and it required some time to dig that out; it was principally in regard to that item that the time was used—the item of actual cash that ought to have been on hand; there was really \$970.55 and \$600 and something in the bank.

Q. Some pretended balance of cash in the Eighth National Bank wasn't there? A. Yes, sir.

Q. What about that? A. They carried in their cash balance to the Eighth National Bank of something over \$3,000, I think \$3,010 I think; the accountant's report there shows the precise amount.

Q. A little over \$8,000? A. No; a little over \$3,000.

Q. Was that cash there? A. The Eighth National Bank failed some time ago, and I believe this was the balance which remained after the collection of the dividends which have been declared by the

receiver of the Eighth National Bank ; that was the principal amount in cash ; then the bank had lost something through forged, raised checks by depositors, which was carried along in the cash and several other small items ; the time I have spoken of was required, a large portion of it, in digging out that cash account.

Q. Were or were not the general facts, in respect to the real estate of the bank entered upon the books ?

Mr. CHAPMAN — I object to that.

Mr. McGUIRE — Mr. President, we desire to object to that if they press it.

Mr. OLMSTEAD — There was such an account ; I want to prove the fact whether there was such or such an account there ; whether there were entries in reference to real estate ; that real estate account.

THE PRESIDENT — Does the counsel for the respondent object to that ?

Mr. McGUIRE — No, sir.

The PRESIDENT — He now asks if there were any accounts or entries in reference to real estate.

Mr. McGUIRE — We do not object to that.

By Mr. OLMSTEAD :

Q. Go on ? A. I have the general ledger here ; there is an account called the " real estate account."

Q. That is the account in the book ? [Showing witness a book.]

A. That is the real estate account.

By Mr. TRACY :

Q. It is not clear enough for us to desire to put it in ; what furniture did you find ? A. The ordinary furniture of a counting room ; counters and directors' desks and chairs.

Q. Was there a safe there ? A. Yes, sir.

Q. How much did the whole furniture sell for ? A. Four hundred and twelve dollars and fifty cents the safe sold for.

Q. And the balance was for the rest of the furniture ? A. Yes, sir.

Q. I think you stated that you were an attorney and counselor at law ? A. Yes, sir.

Q. You are familiar with the practice at New York in respect to making and delivering abstracts ? A. Yes, sir.

Q. What is the practice in respect to delivering abstracts to a company ? A. I believe the usual rule is that the abstract goes to the bank with the appraisal and all the papers relating to the title, relating to the value of it.

Q. And all the searches ? A. Yes, sir.

Q. Does the counsel for the bank usually certify to the liens upon the property? A. Yes, sir.

Q. The condition of the property? A. Either in the form of a certificate or the clerk's official return to a requisition, which amounts to the same thing.

By Mr. CHAPMAN:

Q. According to that practice the attorney of this bank certified to all these mortgages and passed them for the bank; do you know whether Mr. Ellis obtained any information in regard to this bank from any source, except from his examiner? A. No, sir.

Q. You do not know any thing about that? A. No, sir.

Q. Have you an extra copy of this statement? A. I guess there were two or three.

Q. Here you put down, cash in bank and trust company, \$8,400; is that the amount you received? A. That includes the result of some of the sales; that was a statement made for the depositors on the ninth day of December, after the sales had occurred.

Q. The 9th of December, 1876? A. Yes, sir.

Q. Is this the first statement you made to the depositors? A. I have made informal statements at meetings; that was a meeting called for that purpose, pursuant to the statute.

Q. At this time you had succeeded in getting sufficiently far down through the bank to know really where you stood, and was prepared to make this report? A. In regard to the estimates of values, etc., the assets have not realized as well as it has been estimated — that was what I supposed we would realize about that time.

Q. Then there were mistakes of opinion of the value, even at that time, as to what would be realized; I allude to the answer you have just made, that they thought they would realize more than they did? A. We found, when we came to pass the title, that there were taxes, etc.

Q. On the 9th of December, 1876, although you had been in the bank five months, you had not found out all the facts which would affect the amount to be received from this property, had you, or the value of the securities? A. We had pretty well ascertained by that time.

Q. What do you mean by your suggestion that you had not then found out all the taxes? A. I mean to say some of those items of assets I had — the contract of sale had not been closed — therefore the amount which was to be derived from the sale could not be precisely ascertained.

Q. Had you, on the 9th of December, 1876, ascertained the precise amount of the assets? A. I had ascertained what the assets were; yes, sir.

Q. Had you ascertained the precise value of those assets? A. No; not the precise value.

Q. It was a matter of opinion, even with you, then? A. Yes, sir.

Q. Had you, at any time prior to December 9, 1876, so far succeeded in getting at the condition of the bank as that you could announce it to the depositors? A. I had, simply —

Q. I do not get an answer to a single question I put, and if you will notice my questions and answer them, we will get along a little more rapidly; had you had, any time before December 9, 1876, so far succeeded in getting at the condition of the bank as that you could announce it to the depositors? A. I could state precisely what the assets we had were, but I could not state precisely what they would realize.

Q. Had you, at that time, found out the amount of taxes on all this property? A. I cannot tell whether I had tax searches at that time of all of them or not.

Q. I understand you to say that you had not found the amount of taxes; did you say that? A. Please let me see that statement.

Q. Certainly; look at it and see? A. You will see here the taxes necessary to redeem the tax sale was \$250, I think, from that time; from that time I did not have the precise amount of the taxes.

Q. From this memoranda which you made up to show the depositors on the 9th of December, 1876, it appears that you had not, at that time, some five months after you were appointed, ascertained the amount of taxes that were due on this property? A. I do not think I had found the precise amount.

Q. Had you, from the time you were appointed receiver, paid some attention to the affairs or condition of the bank? A. Yes, sir.

Q. How much of the time, during the four or five months, pretty generally? A. The first three or four weeks I devoted almost exclusively more or less time; during that interval I did not find any abstract.

Q. According to that practice, the attorney for the bank did those things? A. He acted in accordance with what I understand to be the usual practice.

Q. How long did it take you to find out this cash item, how long did it take you to hunt up the facts in regard to this cash? A. I think we were at the bank about a week; in regard to the cash and the real estate, there was the most difficulty about.

Q. Those two items of the account it took you nearly a week, with your accountant and assistant, to find out about it? A. We spent nearly a week more, and of course there were more or less people coming in requiring answers to questions, and all that; I think

we stayed there most a week ; most of the examination was in regard to the real estate and cash.

Q. When did the Eighth National Bank fail ? A. I don't know ; some time ago.

Senator PRINCE — I understood the receiver had in his possession a deed of property covered by the Shoemaker mortgage, which he could make use of if he chose.

The WITNESS — I have it in my possession ; I gave the counsel a deed, and agreed that they might use it to draw a deed to me and leave it in escrow ; Mrs. Shoemaker wanted to go to Europe.

Q. That is within your control, and you can take it back when you choose ? A. I understand that it has been done ; I have not seen the deed.

Q. Some part of this property, you say, is clear ? A. Yes, sir.

Q. What is that ? A. I can show you by the diagram.

Q. What part of the city is it in ? A. On Broadway, near Halsey street.

Q. In what city ? A. Brooklyn ; the bank originally took the whole front ; they paid off the \$5,000 mortgage, and then the Shoemaker mortgage covered this [witness describing what it covers on the diagram].

Senator SCHOONMAKER — I object. Nobody can understand a word of this. It seems to me it is utterly immaterial, any way ; I object to the examination as being immaterial.

The PRESIDENT — The object of this examination is to what was done by the receiver with the assets.

Senator PRINCE — Mr. President, the whole examination on both sides has been very largely as to these assets, and these questions were not asked of the witness as to the condition of these assets.

The PRESIDENT — Under the rule the Senate has before adopted, it is competent to show the actual condition of the assets, but not competent to show the transactions of the receiver.

Senator PRINCE — Mr. President, I am not asking of the transactions of the receiver ; I am asking in reference to the assets, in reference to the Shoemaker mortgage. I ask how much is clear and how much is not, and what is mortgaged.

The WITNESS — I can say the Shoemaker mortgage covers certain lots on Broadway, near Halsey street, in Brooklyn, and those lots lie in three plots — the streets are opened so that they lie in three plots ; there streets were laid out, but they are not paved and graded ; what was called Saratoga avenue, and two or three other streets, are named ; the Shoemaker mortgage, in regard to these lots, are second liens on two of these plots ; the first lien is on one of them.

Q. One plot ? A. Yes, sir ; an irregular-shaped plot.

Q. How is that situated? A. On the corner of Halsey street and Broadway.

Q. Give its dimensions? A. On Broadway it was eighteen feet nine and three-quarter inches in front; I have not the dimensions on Halsey street; it was about sixty feet on Halsey street, or sixty-six feet.

Q. Which side of Broadway is it? A. Right-hand side, going out about westerly.

Q. I understand you to say that Saratoga avenue, Macomb and Hopkins streets, are cut through? A. Yes, sir; the plot lying east of Macomb street is 127 feet front.

Q. On Macomb street? A. No; on Broadway; it is irregular in depth; its greatest depth is 137 feet five inches.

Q. What mortgage was on that? A. A \$2,000 mortgage; first mortgage.

Q. Is that all? A. Yes, sir; there are some unpaid taxes; the other plot is on Broadway, corner of Hancock street, the same side of Broadway, some 229 feet I think there is on Broadway.

Q. What was the amount of the mortgage on that? A. Four thousand dollars.

Q. Do you know the amount of value of the land on Broadway at this time? A. I know what success has been had in trying to sell it; they have been appraised by my appraiser; I think he called it worth about \$2,000

Q. What? A. The whole of it, the whole plot; the in that plot he estimates at something like \$1,000 on what the bank own.

Q. How much for that on Macomb street? A. He estimates that about the same; it lies a little better; it is built up, so that he puts that property at \$1,000 above the \$2,000 mortgage.

Q. The one-quarter near Halsey street on Broadway, is at \$3,000?

Senator BRADLEY—Mr. President I don't know as this testimony is of any importance; at any rate we can't hear it on this side of the chamber.

The PRESIDENT—If the examination is to be continued, it should be done in a tone of voice so that it may be heard by the Senate and by the chair. It is impossible to hear the witness.

Senator PRINCE—I will endeavor to raise my tone of voice. I will ask again.

Q. Do I understand that your appraisal gives a value of only \$3,000 for a plot of land 137 feet front on Broadway, in Brooklyn, near Macomb street? A. Yes, sir; that is what we consider the value of that property.

Q. Have you ever seen the property? A. Yes, sir; I saw the plot of land on Broadway, near Macomb street, cut into.

Q. That is the value, over and above the first mortgage, as near as you can get at it, is about \$1,000? A. I have not been able to get any offers for this property; it has been in the hands of brokers and people in that location.

Q. Do you not know there is no selling price in that part of Brooklyn at this time? A. I know it is very difficult to dispose of any property for cash in Brooklyn.

Q. Broadway has a railroad running through it? A. I understand there is a railroad running to East New York.

Q. And the Twenty-third street ferry?

Senator SCHOONMAKER — I insist upon my objection to this examination. I regard it as perfectly immaterial and frivolous. We can spend a week in this evidence, enlightening nobody.

The PRESIDENT — The Chair is of the opinion that the line of interrogatory upon which the Senator from the first has lately entered is not material to the issue before the Senate.

Senator PRINCE — Mr. President, I shall have to appeal from that decision of the chair. I desire, on that, to say a word or two. A good deal has been said as to the amount realized from certain assets, and each of us has to form his own judgment. We can form that better, having an acquaintance with the paper, and comparing that with the value of property, where we know it ourselves better than we could if we did not have that information. I am perfectly familiar with this land. I know it as well as I do the land between here and the United States Hotel. I know just about what it is worth in regular times, and for my own information I can judge better of the ordinary percentage obtained on these forced sales by these receivers, where I know the value of the land, than I can in any other way, and for myself I desire to have that information now. If there was property in the city of Kingston which was mortgaged, and produced a tenth part of what the Senator from the Fourteenth knew it was worth, I suppose he would want to make some inquiries in regard to it. I happen to be more familiar with the Brooklyn property than anywhere else.

The PRESIDENT — The Chair is not intending to exclude any testimony calculated to throw any light upon the value of the assets. The Chair was of the opinion that the Senator from the first had entered upon a line of inquiry not material to the value of the assets. The question is, shall the testimony be received?

The President submitted the question to the Senate whether the testimony should be received, and it was decided in the negative.

Senator PRINCE — These Burnham mortgages, I understand, are on three separate pieces of property? A. They are on three adjoining lots.

Q. Where are they? A. They adjoin this lot spoken of at the corner of Halsey street and Broadway; they front on Halsey street; the Burnham mortgages are on three small houses on Halsey street.

Q. What is the size of these lots? A. The houses are sixteen feet eight inches front; the lots are irregular, and run back to an irregular gorge.

Q. The houses are what class of houses? A. Brick houses; three story brick.

Q. I do not remember whether you stated what the appraised value of the property at the corner of Broadway and Halsey street was; what is your estimate of the value? A. I estimate that at about \$1,500; I have not been able to get any offer for it; it has been in the hands of brokers for some time.

Mr. CHAPMAN — Those are the Shoemaker mortgages? A. No, sir; the Shoemaker mortgages cover that.

Q. Did I understand from your other examination that Cassidy was able to pay the \$10,000 if that company would reinstate them? A. He has made an application to the court for a resale; and the order was that the property be resold; that is for the purpose of making the amount of the decree under which the bank took title.

Q. I may have misunderstood you, but I thought I understood you to say that the reason of this application was, that he said this sale to the bank was not an absolute sale, but that it was a sale conditioned that he could obtain a reconveyance of the property at any time by paying \$10,000? A. Yes, sir.

Q. Was that correct? A. I have the printed case here upon which you can see the ground.

Mr. McGUIRE — That deed was substantially a mortgage I suppose.

Senator PRINCE — I desire to know if that is the ground of the application to the court? A. Yes, sir; that he is entitled to a resale on the ground that the sale by which the bank got title was unfair as against him; that he was either to have the right to redeem it, or that the sale was taken in by the bank for his benefit; he desires to redeem it for the amount which may be found due on an accounting which he estimates at something like \$10,000; I may say in regard to that amount it is in dispute for the reason the bank got a decree against Cassidy in 1873, and he made payments from time to time up to the day of the sale, and the amount which is still due, in case the decree is opened is in dispute; he asks for an accounting, and on that accounting to pay the amount which may be found due.

By Mr. McGUIRE:

Q. What was the amount of the original decree against him? A. Twenty-two thousand seven hundred dollars and interest.

Q. How much ? A. Twenty-two thousand seven hundred dollars and interest and costs.

Q. Cassidy now claims there is only \$10,000 due on that original decree ? A. Yes, sir.

Q. He having paid the debt down to that sum ? A. After the bank got a decree the secretary of the bank was appointed receiver of the rents and profits, and Cassidy made payment to him from time to time, and now claims to be entitled to redeem the property by paying.

Q. He is willing to pay the \$10,000 and take a reconveyance of the property, is that it ? A. Yes, sir ; that is about the amount they estimate ; he is willing to pay what is found to be due on an accounting under this decree, as I understand it ; I have the printed case here showing the whole thing.

Q. The real position, if I understand you, of Cassidy, is that he gave this deed to the bank as a security.

Q. For the loan ? A. He gave regular mortgages ; he did not give a deed ; he gave regular mortgages, and the bank foreclosed, and got a decree in 1873, and the bank took title in 1873.

Q. He claims there was some arrangement between him and the bank, by which he had a right, on payment of a certain amount of money, to be subrogated to the rights of the bank ? A. Yes, sir ; to have a deed back.

Q. You stated Mr. Cassidy paid \$10,000 ; did the bank claim a larger amount ? A. The difficulty with that has been that that is the very property that the trustees made a mortgage on shortly before they failed, and that mortgage is an apparent lien on the property ; Cassidy now says, of course, " if that is a good mortgage, you have been paid your \$10,000 ; therefore, we do not owe you any thing."

Q. Who did the bank give that mortgage to ? A. In the first place to George W. Wilson, who was one of the trustees ; it was turned over to the Hanover Bank and was held as collateral to a call loan.

Q. To the \$15,000 that Reid mentions in his letter to the superintendent of July nineteenth ? A. I presume that is it ; yes, sir.

Q. Is not the question in dispute between Cassidy and the bank, what amount of rents and profits has been received by the bank since 1873 ; he claims that, although the bank had a deed obtained upon the foreclosure, they hold it simply by some arrangement as a security, being in fact a mortgage ? A. I prefer to give you the printed case.

Q. That is too long, and we cannot get it in ; is not that the question in dispute, really ? A. There are quite a number of questions.

Q. Probably it is not material to inquire into all the details of it ? A. Quite a number of questions are involved in that question.

Q. Whether Cassidy is willing to take the property back and pay the \$10,000? A. Providing he can get rid of this \$15,000 mortgage which the bank made, and which is an apparent lien.

Q. I understood you that that \$15,000 loan you ascertained when you were appointed receiver was all paid, with the exception of about \$1,000? A. Yes, sir; the savings bank had drawn the money out from the Hanover Bank so that the balance of that loan remaining in the Hanover Bank to the credit of the Abingdon Square Savings Bank was a little more than \$1,000.

Q. So that the bank had not repaid the loan when you were appointed receiver? A. No, sir.

Q. The bank had paid the loan, the balance was drawn down to about \$1,000? A. Yes, sir.

Q. The mortgage as between the Abingdon Square Savings Bank and the Hanover Bank is good for the face of it? A. I assume the position it was invalid and void as against the savings bank.

Q. That is a legal question; I am speaking of the fact as appearing upon the face of the papers? A. It was in the hands of the Hanover Bank, who assigned it to a man who represented the trustees who brought a suit to foreclose, and the court held the mortgage invalid.

Q. That decree of the court, declaring the mortgage invalid, remains unreversed and unappealed from yet? A. The appeal has not been entered yet; they intend to appeal I believe.

By Senator WAGSTAFF — What was the amount stated in the deed to Mr. Shoemaker? A. I do not know what the amount stated in the deed was.

Q. What was the amount of the decree in foreclosure? A. The amount of the decree, I think, was about \$14,000 or \$15,000.

Senator SCHOONMAKER — Turn to that loan-book, page 7, who is the borrower on that page? A. Louis Stattler.

Q. Do you know any thing about that? A. Mr. Stattler was the man that bought some of the Broadway fronts and procured building loans from the bank.

Q. How many loans were made? A. I think there were ten mortgages all told.

Q. What did they amount to?

Mr. McGUIRE — Made to whom? A. By Mr. Stattler, to the savings bank.

Q. What was the amount of those loans? A. There were five of \$3,600; five of \$3,000.

Q. Give the aggregate amount? A. Thirty-three thousand dollars.

Q. What was the date of those mortgages, according to the book?

A. Six of them are November 25, 1875, and four of them November 29, 1875.

Q. Are there entries in the last column of that book, showing the payment of interest prior to the date of the loans? A. In lead pencil in the last column, the first one is November 25, 1875; that is the same day; that is the date of the mortgage.

Q. Does the entry show it was paid up to that date. A. Yes, sir, these entries appear to be so.

Q. That is my question? A. Yes, sir.

Q. What amount of interest? A. The amount varies under the different mortgages.

Q. Take one at a time; what amount of interest is paid up to the date of the loan? A. The first one has a memorandum, "Interest to November 25, 1875, \$28; paid by 'owner.'"

Q. Is there any entry on the margin showing the payment of interest by an officer of the bank; just run your eye down that column? A. Yes, sir; there is a memorandum in regard to several of these; "interest to November 25, 1875, paid by E. F. B.;" the amount entered in each case.

Q. Whose initials are those? A. Edgar F. Brown's I imagine; he was the attorney for the bank.

Q. For what length of time does it appear, from the memoranda there, that the interest must have been paid on those loans prior to the date of the loan? A. It must have been paid up to date.

Q. For how long a period anterior to the date of the loan? A. There are \$234.67 on the mortgage of \$3,600; that would be several months' interest; I may say, in regard to all the loans to Mr. Stattler, they were building loans: that is, the money was advanced from time to time, and the mortgage may not be executed till the last payment of interest; the money might have been advanced before the date of the mortgage.

Q. What was the security? A. It being the property which the bank held the title, if they preferred giving a deed and taking back a mortgage, of course the building and improvements that went up is in their land.

Q. Have you any explanation now? A. I think that is the extent of it; they were building loans; they sold the lot to him and advanced him money, from time to time, and took back the mortgage covering the consideration of the lot and the amount of the advances.

Q. After the buildings were up? A. Yes, sir.

Q. You mean the bank owned the property early in 1875? A. They got this property early in the fall of 1874.

Q. And that the bank advanced money to erect buildings on these

lots, retaining the title? A. The title was in the president at that time, Mr. Shoemaker; it was not in the bank itself.

Q. When was the conveyance made to this Mr. Stattler? A. I should imagine it was made at the time the mortgages were given; it was made in the fall of 1874 and the date of these mortgages.

Q. Your explanation is that the bank expended the money in making improvements and then took a mortgage for the purchase-price also? A. Yes, sir.

By Senator WAGSTAFF:

Q. The property was sold under a decree for \$15,000, I understand, and under that sale taken by the president of the bank? A. That they did not get under decree by foreclosure; that they got by exchange of property they had under decree and foreclosure.

Q. How much did they pay for the property they exchanged for this? A. It was larger than the amount of the decree, because it was an unfinished building, and they had expended money on it and paid the taxes and all that; the amount, as near as it could be ascertained, was some \$15,000 that this property on Broadway cost the bank.

Q. Cost the bank \$16,000? A. Yes, sir.

Q. The deed was taken by the president of the bank? A. The deed of the property they took in exchange, for that property was taken by the president of the bank.

Q. And by him conveyed? A. Yes, sir.

Q. And then his wife made a mortgage to the bank of \$24,000? A. Yes, sir.

Q. And there were former liens on the property of \$6,000? A. Yes, sir.

By Mr. McGUIRE:

Q. Prior liens on a portion of the property? A. Yes, sir.

Q. In whose handwriting are these entries here on the book; is that yours or your clerk's? A. I think that was the former secretary of the bank, George W. Brown.

Q. These entries indicated a sale to other parties? A. Yes, sir.

Q. The lots, I judge from these entries, were sold to other parties? A. I think they induced these people to take the mortgage.

Q. Whose handwriting do you see where the pencil writing is that you have mentioned? A. George W. Brown, the former secretary.

Q. I do not understand you that you have any actual knowledge of the matters to which your attention has been called; you are judging how you supposed the business was managed? A. In regard to these building loans?

Q. To what Senator Schoonmaker called your attention? A. I do not know as I have seen those contracts, or any of them, among the papers; the books of minutes may give some information on that point.

Q. What you mean to say is, so far as you have any knowledge, at the commencement of this business the bank gave a deed simultaneously with the mortgage and the guaranty gave back a mortgage? A. Yes, sir.

Q. For the amount of the purchase-price and the amount of the loan? A. Yes, sir.

Q. Less any payments that may have been made? A. Yes, sir.

By Senator WAGSTAFF:

Q. Did the deed from Mr. Shoemaker to his wife recite that she was the wife? A. That I do not remember; it was the usual course through Charles L. Burnham, and from him to the wife.

Q. Did the mortgage of \$24,000 recite the fact that it was to the wife? A. I do not remember how that is.

By Mr. TRACY:

Q. What was the date of the mortgage to the Hanover Bank in question? A. I think it is about May, 1876; April or May, 1876.

Senator BIXBY — I move the Senate take a recess to four o'clock.

The President submitted the motion to the Senate, and it was decided in the negative.

Mr. TRACY — The witness, Isaac Smith, whom we desired to examine in this case is not here, although we expected him here by this time. We will, therefore, take up the case of The German Savings Bank of Morrisania.

Henry L. Lamb, a witness on behalf of the State, being recalled, further testified:

Examined by Mr. TRACY:

Q. Produce the original report of the bank January 1, 1875? A. I was served with a subpoena yesterday to produce certain papers; I was present here, and was kept very busy through the day, and, consequently, have not been able to go to Albany, and did not get them; I have no papers here relating to the German Savings Bank of Morrisania.

Q. Mr. Smith will probably have them here when he comes; the subpoena was directed to you both? A. Yes, sir; Mr. Smith has no subpoena though; he has no copy of it, to my knowledge; after the officer served it on me, he asked permission to take it and make a copy, as I understood, and I have not got it again.

Q. Then are there no papers in this case here? A. No, sir.

Mr. TRACY — Then we cannot take it up very well.

Senator HAMMOND — That being the case it seems to me to be proper that a recess be had until four o'clock.

Senator SCHOONMAKER — Mr. President, I desire to ask the counsel if they cannot go on with some other case?

Mr. TRACY — We have some other matters that we can put in now, and save some time in relation to some case that we have examined.

Senator HAMMOND — Then I will withdraw my motion.

Mr. OLMSTEAD — Mr. President we have received these papers in the Trades' Savings Bank, and we now offer them in evidence. I will read in evidence the bond of Alexander M. Lesley to William D. Livingston, dated July 1, 1876, conditioned for the payment of \$7,500, on July 1, 1879, secured by a mortgage from Alexander M. Lesley and wife of the same date, and conditioned upon certain premises in the Fifth ward in the city of New York; recorded in the office of the register of the city and county of New York in liber 1318 of mortgages, page 217, August 24, 1876, acknowledged August 7, 1876.

Also, an assignment of the same bond and mortgage by William D. Livingston to the Trades' Savings Bank of New York, dated July 21, 1876; recorded in the same office in liber 1318 of mortgages page 215, August 24, 1876.

Bond by Alexander M. Lesley to William D. Livingston, dated July 21, 1876, conditioned for the payment of \$7,500 on July 20, 1881.

Mortgage to secure same bond by Alexander M. Lesley to William, D. Livingston, dated July 20, 1876, on property in the city of New York; recorded August 7, 1876, in the register's office of New York; acknowledged August 24, 1876.

Senator GERARD — Mr. President, I would ask whether all this matter is to be printed.

Mr. OLMSTEAD — It is quite important to have it appear upon the record, except the mortgage made by the president of a company to Mr. Livingston, and by him assigned to the bank.

Senator GERARD — I move, Mr. President, that no part of these particular papers be printed, except those parts that the counsel deem necessary, as evidence.

The PRESIDENT — It was for that reason I understood the counsel is stating the contents of the papers in order to avoid printing them all.

Mr. OLMSTEAD — Mr. President, I do not propose to have any thing in, except what we are reading, so that we can save them.

Assignment of the some mortgage by William D. Livingston to the 'Trades' Savings Bank of the city of New York, dated July 21, 1876. Acknowledged August 7, 1876. Recorded in the same register's office in liber 1318 of mortgages, page 216, August 24, 1876.

Senator BRADLEY — I desire to have the amount appear.

Mr. OLMSTEAD — The amount is \$7,500. The last bonds were for \$7,500.

Bond by William Atwater to Joseph I. Burnham, dated November 1, 1874; conditioned for the payment of \$6,000 November 1, 1876, with interest; also,

Mortgage to secure the same bond, dated November 1, 1876, by William Atwater to Joseph I. Burnham, on his premises in Brooklyn, on the easterly side of Bedford avenue. Acknowledged August 10, 1874. Recorded in the register's office of Kings county in liber 1248 of mortgages, page 189. It is for \$6,000 and interest.

Assignment of the last bond and mortgage by Joseph I. Burnham to the Trades' Savings Bank, dated January 14, 1875. Acknowledged January 14, 1875. Recorded in the register's office of the county of Kings, at page 501. Dated November 15, 1875.

Bond from Michael Grace to C. Frederic Shelburg, to secure the sum of \$3,000 and interest; also

Mortgage by Michael Grace and wife to C. Frederic Shelburg, to secure the bond dated August 19, 1874, upon premises in Brooklyn, on Box street, near Oakland street. Acknowledged August 19, 1874; recorded in the register's office of Kings county page 75, August 21, 1874.

Bond by Michael Grace to C. Frederic Shelburg, dated August 19, 1874, to secure the payment of \$3,000; and

Mortgage by Michael Grace and wife to E. Frederic Shelburg, to secure the bond on property in Brooklyn, on the southerly side of Box street, near Oakland street. Acknowledged August 14, 1874; recorded in the register's office of Kings county, in liber 1226 of mortgages, page 79, August 21, 1874.

Assignment of both the last-mentioned mortgages by C. Frederic Shelburg and the firm of Emerson, Shelburg & Co., to the Trades' Savings Bank of New York, dated January 18, 1875. Acknowledged the same day; recorded in the register's office of the county of Kings, in liber 1258, page 197, January 19, 1875.

Bond by John McCool to the North America Life Insurance Company, conditioned for the payment of \$16,000 and interest. It appears by the assignment upon the bond that it has been reduced from \$16,000 to \$9,000.

Mortgage to secure the same bond by John McCool and wife to the North American Life Insurance Company, dated September 26,

1872, upon property in Eighty-third street, in New York. Acknowledged December 26, 1872; recorded in the register's office of New York, in liber 1098, page 378, January 13, 1873.

Bond by John McCool to the North America Life Insurance Company, dated December 26, 1872, to secure payment of \$10,000. Further reduced to \$8,000 by indorsement upon the bond secured by mortgage from John McCool and wife to the North America Life Insurance Company dated December 26, 1872, on property on Eighty-third street, in the city of New York. Acknowledged December 20, 1872; recorded in the city of New York, in the register's office, in liber 1097, page 353, January 4, 1873.

Mr. TRACY — I will state that the last two mortgages recited having been assigned by the North American Life Insurance Company to Henry A. Cram, we haven't that assignment; but it is recited in the next instrument.

The next instrument I offer in evidence is an assignment by Henry A. Cram, of the last two mortgages to Theodore W. Freese, of the city of New York, dated April 28, 1875; acknowledged the same day, recorded in the office of the register of New York, in liber 1223, page 404, May 7, 1875, and purports to assign the last two mortgages after they had been reduced to \$9,000 and \$8,000 respectively.

I now offer an assignment by Theodore W. Freese to the Trades' Savings Bank of the same two mortgages; consideration \$17,000; assignment dated April 30, 1870, acknowledged April 30, 1875, recorded in the register's office of the city and county of New York, at page 38, June 16, 1875.

The next instrument is a bond by Conrad Boller to Alexander M. Lesley for \$10,000, and a mortgage by Conrad Boller and wife, to secure the payment of the last-mentioned bond to Alexander M. Lesley, of property on Eighty-third street, in the city of New York, acknowledged January 19, 1875; recorded in the register's office of New York, in Liber, 1218, page 82, January 27, 1875.

I also offer in evidence, assignment of the last bond and mortgage by Alexander M. Lesley to the Trades' Savings Bank of the city of New York; consideration \$5,000, dated January 19, 1875, acknowledged the same day; recorded in the register's office of New York, in liber 1267, page 37, January 16, 1875.

These are documents that were forwarded to the Senate under the instructions given to Mr. White, who was upon the stand as a witness. We offer them all in evidence, but not with a view of having them printed in the papers or documents, read so that the Senators may examine them.

The Senate hereupon took a recess till four o'clock p. m., Wednesday August first.

SARATOGA SPRINGS, *August 1, 1877*—4 P. M.

The Senate met pursuant to adjournment.

Samuel B. White, being recalled on behalf of the State, testified as follows:

Senator PRINCE — Mr. President, I will ask the witness whether the statements in that letter I show him, which he was asked to return a copy of, generally are true; those cover the three questions; this letter was written by you? A. It was written by my order; by my request.

Q. It is an answer to the questions I asked you when you were here before? A. Yes, sir.

Q. The contents of the letter are true? A. Yes, sir; this was a letter explaining the particulars of some of the property in Brooklyn.

Mr. OLMSTEAD — Signed Samuel B. White, receiver, per J. W. Gedney.

Q. Did he write it? A. Yes, sir; at my directions.

Q. Did he make up these amounts? A. From the return of the sheriff; the sheriff's certificate.

“NEW YORK, *July 30, 1877.*

Hon. L. BRADFORD PRINCE, *Senator* :

Sir — At your request I send you the following:

The three pieces of property foreclosed in Brooklyn account Trades' Savings Bank are located and described as follows:

(1) House and lot on the south side of Box street, ninety-five feet westerly from Oakland street, and being twenty feet front and rear and 100 feet deep. This lot sold by sheriff of Kings county under the decree of court for \$850. Sheriff paid out of this amount:

Costs and allowances as taxed by the court.....	\$193 49
Disbursements necessarily incurred.....	33 55
Advertising sale and sheriff's fees.....	40 25
Taxes and assessments past due and a lien upon said premises.....	263 36
	<hr/>
	\$536 65
	<hr/>

Net return from sale.....	\$313 35
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(2) Lot No. 2, same street and size, and adjoining the one last named, sold at same time for..	\$725 00
Costs and allowance.....	\$194 47

Disbursements in suit.....	\$33 60	
Advertising and sheriff's fees.....	40 25	
Taxes and assessments past due and a lien upon premises.	269 36	
		<hr/>
		\$537 68
Net returns from sale		<hr/>
		\$187 32
		<hr/>

(3) House and lot on Bedford avenue, 77 feet $8\frac{1}{4}$ inches northerly from Lynch street $21\frac{3}{4}$ feet front and rear and 85 feet deep.

This property was sold by the sheriff under the foreclo- sure for		\$5,325 00
Costs and allowances as taxes.....	\$187 88	
Disbursements in suit	45 80	
Advertising and sheriff's fees.....	50 25	
Taxes and assessments past due and a lien upon premises, paid.....	562 11	
		<hr/>
		846 04
Net return from sale.....		<hr/>
		\$4,478 96
		<hr/>

For more full description of above properties, see mortgages this day sent to clerk of Senate.

Very truly yours,

SAMUEL B. WHITE, *Receiver*.

Per J. W. GEDNEY."

Q. This is the book of minutes of the board of trustees that I show you? A. I do not know; that is a book you asked me to produce; I told you it was not in my possession; it never was; it was given to me this morning by Mr. Freese, the secretary; have never opened it.

Q. He gave it to you as the book of the minutes? A. Yes, sir.

Mr. OLMSTEAD — I would like to read from the book of minutes a portion of the minutes of the meeting of January 12, 1876.

Mr. McGUIRE — I do not suppose the book has been identified sufficiently to read from. We will not object to it.

Mr. OLMSTEAD :

"NEW YORK, *Jannury* 12, 1876.

"Adjourned meeting of the board of trustees of the Trades' Savings Bank held this p. m., the president in the chair. The roll being called, a quorum was present consisting of the following: Alex. M. Lesley, Peter Dooley, James M. Waller, C. D. Duncan, J. H. Livingston, H. Duchardt, J. M. Freese."

The portion of the resolution to which I refer is as follows :

“ Moved and seconded that the sale of the Beach street house and lot to John Mulvaney, for \$28,500 ; terms, one-quarter cash ; bond and mortgage to be approved. Carried.

“ J. M. FREESE,

“ *Secretary.*”

I also desire to read in evidence a portion of the minutes of the board of July 11, 1876, on page 81 of the minutes :

“ The roll being called, a quorum being present, consisting of the following : Alex. M. Lesley, Peter Dooley, James M. Waller, H. Duchardt, C. D. Duncan, J. M. Freese.

“ Moved and seconded that the Mulvaney mortgage on the house and lot No. 17 Beach street be satisfied in consideration of the receipt of \$10,000 in cash, and the following mortgage of Alexander M. Lesley for \$15,000. Carried.”

Mr. McGUIRE — This testimony should be given as being in the 'Trades' Savings Bank ; the reporter will note that, so that it will not be mixed up with any other case.

Q. What, in your opinion was the value of the Beach street property ?

A. The property is in the neighborhood of where I formerly lived a great many years, and where I have done business a great many years, a very desirable piece of property, and I should think it was cheap at \$25,000.

Q. Cheap at \$25,000 ? A. Ordinarily ; I do not know as it would bring that to-day, but it is certainly worth it.

Q. Can you tell the amount of income on that property ? A. It is divided up into stores and tenements ; I have no doubt it brings \$2,500 a year ; I have no knowledge of how much it does bring, but judging from other pieces of property I am familiar with, I should think that might be the same thing.

Q. This is the property that is covered by the Lesley mortgages as was called ? A. Property the Trades' Savings Bank owned in Beach street.

Q. Mortgages of \$7,500 ? A. Two mortgages of Lesley assigned to the bank, \$15,000 each.

Q. I understand the \$10,000 referred to in the resolution, each was paid, and a \$15,000 mortgage given for the balance. A. That I cannot testify to, for I have no knowledge of the transaction only as it exists now.

Q. Your understanding is that the \$15,000 mortgage was given under this resolution ? A. I never read the resolution before ; I have no doubt it is so if that is there.

Q. You know of no other two mortgages covering \$15,000, except the two mortgages that have been alluded to ? A. No, sir.

Q. Have you seen the deed of the property to the bank? A. No, sir.

Q. Have you possession of the property. A. No, sir.

Q. Do you know whether the bank owned the property at the time of dissolution. A. I do not.

Q. Have you ever seen a deed to the bank? A. No, sir.

Q. Of the property? A. No, sir.

Q. What is the number of the property in Beach street? A. I could not tell you, unless you allow me to take it from the letter I wrote.

Q. Between what streets on Beach street? A. Between Varick street and West Broadway, on the north side of the street.

Q. How large is the lot? A. About twenty-five feet by half a block.

Q. Was it a brick house? A. Yes, sir; covers the whole ground.

Q. Used for tenement? A. Tenement and stores.

Q. Do you think a house of that character is worth \$25,000? A. Yes, sir; it adjoins the next block from the depot.

Mr. OLMSTEAD — Mr. White has left in our charge his deeds and books to be returned at the close of the investigation, unless some other orders come.

Mr. TRACY — The papers in the German Savings Bank will not be here until to-morrow morning, and in the meantime I propose to put in the testimony we have with reference to the Loaners' Bank.

Henry L. Lamb, being duly recalled on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. How long have you been in the Bank Department? A. I have been there since the 1st of May, 1873.

Q. Do you know of any report ever being rendered to the department by the Loaners' Bank? A. No, sir.

Q. Do you know whether it was ever examined by order of the Superintendent? A. I know it never was examined.

Q. No report of the examination reached the department? A. There is no report in the department of the examination.

Q. Will you produce from the papers of the department two or three papers you have mentioned before the committee of the Senate; one of them was a letter from one of the Senators — two letters from Senator Coleman; will you produce Senator Coleman's first letter; if there are two take the one of the earlier date, if you please? A. I have a letter from Senator Coleman in respect to this institution dated March 7th.

Q. Read it. A.

“ALBANY, *March 1, 1876.*

“HON. DE WITT C. ELLIS, *Superintendent of the Bank Department, Albany :*

“SIR — I do not find in the detailed statement of the condition of the banks accompanying your annual report any statement of the condition of the Loaners' Bank of New York city, as required by law, I would therefore respectfully inquire why such statement does not appear with the statements of other banks and moneyed corporations.

“Very truly yours,

“THOMAS COLEMAN,

“*Chairman of the Senate Committee on Banks.*”

Mr. TRACY — Let that be put in evidence.

By Mr. TRACY :

Q. Read the next letter ? A.

“ALBANY, *March 21, 1876.*

“HON. DE WITT C. ELLIS, *Sup't B'k Dept., Albany :*

“DEAR SIR — I would inquire whether you have obtained the opinion of the Attorney-General relative to the liability of the Loaners' Bank of New York to make reports to you under chapter 324 of the Laws of 1874, as you said to me you would do. If it is decided that that bank is not now required to make reports to you, I shall deem it my duty to introduce a bill amending its charter, so as to require such reports to be made.

“Very truly yours,

“THOMAS COLEMAN,

“*Chairman of the Committee on Banks.*”

Mr. TRACY — Let that be in evidence.

By Mr. CHAPMAN :

Q. Do you find the letter there from Charles Tracy, about that date ? A. Yes, sir ; there is such a letter on file.

Q. Will you read that ? A.

“NEW YORK, *March 14, 1876.*

‘*Sup't B'k Dept., Albany, N. Y. :*

“DEAR SIR — The Loaners' Bank seems not to have made any report to you. It was chartered as a bank, Laws of 1868, page 709, chapter 333, and its name was changed, Laws of 1869, page 1202, chapter 500 and is bound to report by act of 1868, page 709, at the end of section 1. Please let me know whether it has ever reported to you. It is

also stated it has taken deposits, and had usual customers 'with checks and pass-books.'

"Respt. yours,

"CHARLES TRACY."

Q. Have you a copy of a letter in your letter-book, which was sent from the department to Mr. Reid in respect to the duty of this bank to report and to be examined; if you have just turn to it and find it, if there was one stating this bank was liable to examination; is there such a letter? A. Yes, sir; April 7, 1876, there was a letter.

Q. Read it? A.

"GEORGE W. REID, Esq.:

"MY DEAR SIR.—Yours in regard to the Loaners' Bank is received. I think there is no question as to the right to examine them, and to require reports from them. I have the written opinion of the Attorney-General to that effect. You had better wait, however, until the first of the week, when I will go down with the opinion and look into the matter.

"Very truly yours,

"DE WITT C. ELLIS."

MR. TRACY — The other side may examine Mr. Lamb.

By Mr. MCGUIRE:

Q. Have you a set of papers connected with this bank? A. Yes, sir, several of them.

Q. Have you the opinion of the Attorney-General? A. Yes, sir.

Q. Produce it, if you please? [Witness produced it.]

Q. Just read that opinion of the Attorney-General? A.

"STATE OF NEW YORK:

"ATTORNEY-GENERAL'S OFFICE, }
"ALBANY, April 4, 1876. }

"HON DE WITT C. ELLIS, *Supt. Bk. Dept.*:

"DEAR SIR.—My opinion is that the Loaners' Bank is required by law to report to you.

"Yours respectfully,

"CHARLES S. FAIRCHILD,

"*Attorney-General.*"

Q. Have you examined the charter of this bank, Mr. Lamb? A. Yes, sir, I did at the time this matter was under discussion.

Q. Is there any penalty in the law for a neglect or refusal of the bank to report? A. You mean in the charter?

Q. Yes, sir? A. I think not.

Q. Is the superintendent clothed with any power to enforce a report from the bank?

Mr. TRACY — By the charter?

Mr. MCGUIRE — Yes, sir.

Mr. TRACY — Why not take the charter? The legal effect of the charter is a matter to be considered from time to time; it can be brought here, but we hardly want to examine anybody but some expert, like the Attorney-General, what the provisions of the charter were, and what the penalties might be.

Mr. MCGUIRE — Mr. President, that is not the object. The superintendent is arraigned here for not requiring this bank to report. The purpose of the evidence is to show that the superintendent examined this law and obtained this elaborate opinion from the Attorney-General, and after obtaining that, and while he did concur in the opinion of the Attorney-General, that they were obliged to report, still the Bank Department concluded that they had no power to enforce the omission. Whether it is a proper construction of the charter, that is one thing. But what we want to get at is the action of the Bank Department at the time.

The PRESIDENT — The Senate will put a construction upon the law.

Mr. MCGUIRE — I was not asking for a construction of the law, but as to what governed the action of the Bank Department. The superintendent may have been wrong in his construction of the law, but if he gave it a construction at the time that he could not enforce it, that is one thing. Some other lawyers might claim that he had power to enforce, and he might come to the conclusion that he had not power to enforce.

Mr. TRACY — I would like to say one word; asking the construction the Bank Department put upon it is asking what construction Mr. Ellis, the head of that department put upon it, or the construction that some other person or persons in the department put upon it. Now, asking of the witness, personally, what construction he put upon it, he would be the person to know and answer all that. If he wants to know what construction Mr. Ellis put upon it, Mr. Ellis has been examined, and we have his deposition at large, and if there is any thing to be added to it, he will be examined in the case. To ask what construction the Bank Department put upon it will be broad; what construction Mr. Lamb put upon it is not material. It strikes me, so far as a question of construction by Mr. Ellis is concerned, it is merely a matter that he may assign as personal reasons

for his conduct ; and whether he is entitled to state these things, we have the Attorney-General's opinion in here, and no adverse opinion, and it seems to me it is asking for a good deal to ask whether there was a construction in that office that set aside the Attorney-General's opinion entirely in that matter, or raised the point that there was no remedy for a breach of the law in a corporation.

The PRESIDENT — The counsel for the respondent asks the witness, whether the Bank Department regarded the charter of the bank as requiring the bank to report to the superintendent.

Mr. McGUIRE — Oh, no, no ; not at all. Why we go upon the assumption that the Attorney-General's opinion is correct.

The PRESIDENT — What is the question ?

Mr. McGUIRE — I regret that I have been unable to make myself understood ; if you will permit me, I will state what it was. While I may concur in the views of the Attorney-General, that the bank was obliged to make a report, still the Bank Department, by an examination of the law and a conclusion at which the Bank Department arrived. Whether that conclusion is wrong or right, is not material just now, but the conclusion at which they arrived is important, that there was no way provided by law for the punishment of the bank in case it neglected that duty, which the Attorney-General says the law imposed upon the bank ; and I certainly desire to remove the wrong impression created by my learned friend, that we are trying to contradict the opinion of the Attorney-General. That is a matter we assume for the purpose of this question, that the Attorney-General is right, that the bank was required to report ; but suppose the bank did not ? The object of this inquiry is that the Bank Department, then concluded that the law gave no remedies, placed no power in the hands of the superintendent to enforce that neglect of duty.

The PRESIDENT — The counsel for the respondent asks whether the Superintendent of the Bank Department was clothed with power to enforce a report from this company.

Senator HARRIS — I do not know that I comprehend the question. If I understood it right it was calling for the special opinion of this witness—what power the statute gave the superintendent.

The PRESIDENT — The Chair is of the opinion that it called for the construction of the charter by the witness.

The question was repeated.

Senator HARRIS — The question is whether the superintendent was clothed with power by the charter, to require this bank to report. Well, that is a mere construction of the statute, and it is not for a witness upon the stand to express his opinion at all upon that subject. He is not here as an expert in construing law ; he is here to testify to

facts, and therefore, with all due deference for the counsel for the respondent, I think the question is improper. It is not for this witness to say what the statute is. It is for the court to pass upon the construction of the statute. Why, I remember as a schoolboy going into a court of considerable dignity, in the city of Schenectady, when two lawyers got into dispute as to the construction of the statute, and one called another lawyer upon the stand to show what the statute was, and the judge rebuked him as an insult to the court. Therefore, I think, it being a question calling for the opinion of the witness as to the construction of the statute it is improper.

Senator VEEDER — Mr. President, I have not looked upon that according to the Senator from the Thirteenth, as involving that question. I think the question meant this ; whether the construction that the department placed upon the charter was such that the department could not enforce a report. That is what I supposed was involved in the question. Not what the construction of it is really, but what construction was placed upon it by the Bank Department at the time, which controlled this action.

Senator GERARD — Mr. President, I agree with the Senator from the Thirty-second. The gentleman on the stand is not an expert, not a lawyer nor a jurist. I see no propriety in asking him to construe the law, but I think there is propriety in putting a question to him to the effect, as stated by the Senator from the Thirty-second, what was the construction put upon this statute by the Bank Department at the time of the insolvency of this bank, and before that ?

Senator STARBUCK — Mr. President, does the Senator from the Seventh suppose that an accused official may make his own misconstruction of the statute an instrumentality of escape from justice ?

Senator GERARD — The opinion of the Attorney-General is back of it.

Senator STARBUCK — The opinion of the Attorney-General, as far as we have it here, is directly the other way. The opinion of the Attorney-General is such as to quicken the superintendent to find a way to enforce the rights which the Attorney-General says he possessed. And now will the Senate lend countenance to the idea, that an accused official may stand acquitted upon his averment that a bill or statute means directly the reverse of what all jurists construe it to mean. For myself, I do not believe in the propriety of calling a witness to the stand to swear to the law. Let us learn what the facts are, and I think the Senate will then be able to determine what the law is.

Mr. MCGUIRE — Mr. President, the position of the counsel for the respondent is not yet understood. While I submit very patiently and meekly to the rebuke of the Senator, I must be permitted to say in asking the question, I have not intended to insult this court, or

any other court, nor am I following the proposition which the counsel give out in the Schenectady case. I am merely, Mr. President, putting an interrogatory to this witness which I suppose to be proper, and that interrogatory is not for the purpose of this witness to give the true law upon the subject, but to give his construction of a law in answer to a charge here of a neglect of duty. We are told by the learned Senator that an accused person cannot set up his construction of the law in answer to a proceeding against him from neglect of duty. How often has the case arisen in this State, and how often will it arise again, Mr. President and gentlemen Senators, when the Auditor to the Canal Department refuses to pay a draft or neglects a duty which is imposed upon him by a statute, upon the ground that the law itself is not within the power of the Legislature to pass, and he neglects a duty by a construction of the law which he puts upon it, and refuses to pay the draft drawn upon him, and when the party presenting the drafts goes to the courts it may be that the judge at Special Term holds that he is right. The court at General Term holds that he is right; and finally the Court of Appeals holds that he is right and under the argument presented here by learned Senators, that the Auditor of the Canal Department should be removed because he has neglected a duty imposed upon him by the law and, which he himself supposed that he was not bound to perform. Take the other branch of the case, the illustration I have given, where the Auditor of the Canal Department pays drafts under a law, and the Court of Appeals ultimately decide the law to be unconstitutional, when the official is arraigned in one case for neglect and in the other case for mal-administration of the law, why is he to be removed because he did not give a correct interpretation of the law? Now every officer, I take it, upon whom a duty is charged by statute, must primarily construe that statute himself as to his duty. He may be right and he may be wrong. The question comes down, does he in good faith construe the law and act in good faith upon his construction, although the question is not in the shape suggested by the Senator from the Thirty-second? In the first remark I addressed to the Senate I claimed that the object of the inquiry was that the superintendent was permitted, or should be permitted, to show the construction that he placed upon the law as an excuse for his action or non-action, although he may have been wrong in that construction. There is no such thing here as a department of government acting judicially. They are called upon to act ministerially under the statutes, and they must before courts give a construction—they must decide for themselves their powers under that particular statute. Apply it to this case: Here is a statute says that requires this bank to make a report; the superin-

tendent asks the bank to make a report; the bank still refuses to make a report, saying we are under no obligations and if we are (in the language of a celebrated individual) "what are you going to do about it?" The superintendent looks at the law, and sees that he has no power to enforce the bank, that is, he concludes himself that he has no power to enforce this neglect on the part of the bank. We may then suppose this was the only charge against the Bank Superintendent for not proceeding against the bank. Would you, gentlemen of this Senate, convict this superintendent, or any other officer, of a neglect of duty in enforcing a report from the bank when he had honestly, conscientiously and in good faith given a construction of the law as to his powers, although you may ultimately determine that he had power to enforce the bank? Suppose you as a Senate should decide that he had power to enforce, and if the case could be taken to the Court of Appeals, and the Court of Appeals should decide that you were wrong and the superintendent was right, how is that going to leave a superintendent in the end? How is the superintendent to get such a question before the court to get an adjudication from a judicial tribunal? What provision is there in the charter or in any law when the bank refuses to make a report? How is he to institute judicial proceedings to compel them? He must look and act, and give his own construction to the law, and upon that construction he must act. If he is wrong in his construction it is his mistake — a mistake honestly made. If he is right, then he certainly should not be arraigned and condemned. All that we desire to show, Mr. President, is simply that the superintendent, right or wrong, placed a construction upon this law that he had no right to enforce the examination of the bank, and, having no right he could not take any proceedings against the bank to wind it up or to compel a report.

Senator HARRIS — Mr. President, I may agree with all that has been said by the learned counsel, and still the objection to this question is a proper one, and should be sustained. The counsel does not draw the distinction at all upon which the objection goes. The illustration of the counsel in regard to the Auditor of the Canal Department, is not apt here. It would be apt if he had followed it farther, and stated that, upon the trial, where the Auditor of the Canal Department had refused to grant a warrant Henry L. Lamb had been called, and whether the Auditor was right or wrong, under the statute, that would have been just this case. This question is not the one that the Senator from the Thirty-second suggested, or spoke of at all; this question is simply this; Mr. Lamb, had the Superintendent of the Banking Department any power to compel a report from this Loaners' Bank? That is the question. Under its charter, had the

superintendent any power? That calls for a mere construction of the statute. That is not the question which the learned counsel seems to suppose, namely, what construction of the statute the Bank Superintendent acted upon. That is a very different question. It may still be proved that he acted upon a certain construction, and a construction of the statute entirely different from that of the Attorney-General, but that is not this question. This is a question put to the witness as an expert for construing statutes. What power had the superintendent under this statute? Had he any power under the statute to compel a report from the Loaners' Bank? That is this question. And it seems to me that being so, and clearly understood, that there is no lawyer that can defend the question for a moment.

Senator BRADLEY — Mr. President, I think the question probably has occupied now as much time as it should. The superintendent is charged here with a neglect of duty. The question, of course, is one of diligence; involves, to some extent, a question of motive, and I assume that the purpose of the inquiry that has been made, the view which the counsel for the accused had in the outset was to show that the department had placed a construction, for the purpose of their action, upon the law, in respect of the power to compel banks to make their report, with a view of farther inquiry of what that construction was. Now, it seems to me, in view of the charge under which the superintendent stands here, that an inquiry of that sort might be proper; it, of course, would be for the Senate to determine what the effect of such determination, and of such action, on the part of the department was, so far as it applied to the superintendent, but it seems to me as bearing upon his motive — upon his purposes — and upon the question of negligence involved in this inquiry, that it is a proper subject to be inquired into. The question which has been put and read by the stenographer, it seems to me, is incompetent. That distinctly asks for a construction of the statute; distinctly requires of the witness whether the superintendent was clothed with any power to compel these reports. I shall feel inclined to vote to sustain the objection, but I am inclined to vote for a question in respect to what the department has done in arriving at a construction, and their action under it.

Mr. McGUIRE — Mr. President, my question is proposed, and as read strictly from the stenographer's minutes in the remarks that I made when first up, show plainly what my purpose in stating what the purpose of inquiry was, that the Bank Superintendent gave constructions from which he acted; whether that construction was right or wrong would depend upon the motive or good faith of the superintendent. I, therefore, to get the question properly now upon the record, will modify it to that extent as to what construction the

Superintendent of the Bank Department placed upon this statute as to whether they had the power to enforce a report in case of a non-compliance by the bank.

The PRESIDENT — Does the counsel withdraw the objection?

Mr. TRACY — If that is to account for some act of the Superintendent of the Bank Department — some writing, paper or utterance of his in his official capacity, I would not object to it at all. I would concede he should have the benefit of putting that in for what it is worth. But the witness is asked what construction Mr. Ellis put upon that. Not what Mr. Ellis said about it, nor what Mr. Ellis thought about it. I submit that is not the proper way. If Mr. Ellis took any action upon the subject, one way or the other, after that, I would not interpose an objection by any means. I would say, let him have the benefit of showing what he declared about it. But we have [his letter here that they ought to report; but if there is a letter of his, that he could not make them report, let that be produced. But why should an employee of the office tell what he thought upon the question?

Senator HARRIS — Mr. President, as the question now stands, I have no objection to it.

The President submitted the question to the Senate, whether the testimony should be received, and it was decided in the affirmative.

Q. Now you may answer the question, if you please, Mr. Lamb, as to what construction Mr. Ellis placed upon this statute, as to his power to enforce a report, in case the bank non-complied? A. That the words, "this statute," referred to the charter, as I understood; it was the opinion of Mr. Ellis it gave him no power to enforce a report.

Q. After this letter of the Attorney-General, which has been introduced, was received by the department, what, if any thing, was done by Mr. Ellis in requiring a report from the bank? A. Nothing, that I recollect.

Q. If not as to making a report, did he do any thing requiring an examination of the affairs of the bank? A. No, sir, not that I know of.

Q. Are there any papers on file in the department showing that Mr. Reid attempted to make an examination? A. Yes, sir.

Q. And that the bank refused? A. Yes, sir.

Q. Produce them. [Witness produced them.] A. A letter from George W. Reid, dated April 6, 1876.

Q. Read that? A.

"HON. DE WITT C. ELLIS, *Supt. Bank Department* :

"DEAR SIR. — President Russell, of the Loaners' Bank, says he has written to you in reference to reporting, etc. He does not object to

being examined, if it would not subject them to pay in the \$50,000 called for by the law of 1874. The former Attorney-General having decided they did not come under that law, he must decline an examination until he could hear more definitely from his attorney and the Attorney-General. What shall I do ?

Yours truly,

“GEORGE W. REID.”

Q. Have you the opinion of the former Attorney-General among the papers ? A. No, sir.

Q. Referred to in Mr. Reid's letter ? A. No, sir.

Q. That is not on file in the Bank Department then ? A. No, sir.

Q. Have you any opinion among those papers from any counsel upon the subject of the reports or examinations ? A. There is an opinion ; Mr. Chapman has it.

Q. Who is that from ? A. Mr. William Tracy.

Q. What is its date ? A. April 13, 1876.

Q. Read that ?

The WITNESS — I read a letter from the letter book a few minutes ago, before the debate, written by Mr. Ellis, in reply to this letter written by Mr. Reid ; in Mr. Ellis' letter he said he would go down to New York the next week in regard to this business ; what action was taken there, except so far as these papers indicated, I have no knowledge.

Q. Did Mr. Ellis go to New York ? A. He did.

Q. As stated in his letter to Mr. Reid ? A. Yes, sir.

By Mr TRACY :

Q. Have you the original opinion, or is this a copy ? A. This is marked “ copy.”

Mr. TRACY — You have not told how that came to the office of the department.

By Mr. MCGUIRE :

Q. State if you know ? A. When Mr. Ellis returned from New York he brought this paper, and it was filed in the office ; the original filing, I think, was made at New York ; it is not the handwriting of anybody in the department ; but another filing “ Loaners' Bank” looks like that of Mr. Smith, a clerk in the office.

Q. Just read the paper ?

Witness read as follows :

I am requested to advise the Loaners' Bank of the city of New York whether it is subject to the provisions of chapter 324 of the Laws of 1874, entitled “ An act relating to moneyed corporations other than banks, institutions for savings and insurance companies.”

In the body of the act (sec. 1) its provisions require every trust, loan, mortgage, security, guaranty or indemnity company or association, and every corporation or association having the power and receiving money on deposit existing or incorporated under any law of this State, which receives deposits of money or assume obligations in this State (*other than banks* institutions for savings and insurance companies),” semi-annually to report, etc. The question is, then, whether the Loaners’ Bank is a *bank* within the exception enumerated. It becomes important to examine the history and powers of the Loaners’ Bank. It was originally incorporated by a special act of the Legislature (chapter 333 of 1868), under the title of the “Pawners’ Bank of the city of New York,” with the powers and privileges, and to be governed by the rules and provisions established by law, relative to banks of this State, so far as applicable to the objects of this institution. It shall not be a bank of issue, and shall loan on pledge of goods and chattles, bonds and securities of this State and of the United States, and deposit-books of savings banks, and shall make an annual report to the Superintendent of the Banking Department. By charter 500 of the Laws of 1869, “the corporate name of the Pawners’ Bank in the city of New York shall hereafter be the Loaners’ Bank of the city of New York.”

Chapter 264 of Laws of 1871 is entitled “An act to amend the charter of the Loaners’ Bank in the city of New York.” It is in the body of the law three times called a bank. It cannot, therefore, be denied that the Legislature incorporated it as a bank with some peculiar powers, but, nevertheless as a bank, and if so, that it, in its terms is included in the exception in chapter 324 of the Laws of 1874, requiring trust, loan, mortgage and security companies, etc. “(*other than banks, institutions for savings and insurance companies*),” to report semi-annually, etc. Indeed, with the exception of savings banks, and of this institution, there are now in this State no institutions existing under its laws called *banks*.

They are all banking associations, but pass under the popular name of banks, and as such are, doubtless, meant in the exception.

This Loaners’ Bank possesses all the powers and capacity of the associations formed under the “Act to authorize the business of Banking” (sec. 18, 2 R. S., 5th ed., p. 560), except as limited by the charter. It can receive deposits, discount bills, and other evidences of debt, buy and sell gold and silver bullion, foreign coins, and bills of exchange, and loan money on real and personal security, and it can borrow money, and, by the terms of its charter, may loan moneys on pledge of any personal property, or the evidence thereof (chapter 264 of Laws of 1871). These additional powers do not take from it any of

its charter, as a bank. No banking association or bank need transact all the business authorized by the act. It need not issue its circulating notes, it need not purchase or sell bullion, and it need not deal in foreign exchange, and yet it will be a bank if it transacts a portion of the business authorized. I am, therefore, of the opinion that the chapter 354 of the Laws of 1874, has no reference to the Loaners' Bank. And that it is simply within the same provisions as to reports as are other banks, so far as applicable to the objects of the institution, and as provided in its charter.

Dated *April* 13, 1876.

(Signed) WM. TRACY.

Q. Do you find upon the records of the department whether this bank ever made a report under the administration of Mr. Schuyler or Howell? A. No, sir; I know of no record of any report received from this institution.

Q. Have you given us all the correspondence relating to this bank? A. No, sir.

Q. Have you any other letter from Mr. Reid than the one you have mentioned? A. No, sir; I have not.

By Senator STARBUCK:

Q. How came this opinion by Mr. Tracy to be sent to the Bank Department? A. I cannot tell; the business was transacted at New York.

Q. Perhaps you can answer this, was it applied for by the Bank Department or procured by the bank and sent to the department?

Senator BRADLEY — It is in the case the reason it was produced.

Mr. CHAPMAN — On pages 328, 329 and 330 the history of the whole thing is given.

By Senator STARBUCK:

Q. Is there any other case in which, to your knowledge, the department has acted upon the opinion of an outside lawyer against the advice of the Attorney-General? A. I do not recollect of any.

Q. Do not recollect of any? A. No, sir.

By Mr. MCGUIRE:

Q. Can you state, Mr. Lamb, whether the superintendent, in this case, acted against the advice of the Attorney-General; all the advice we have of the Attorney-General is what is in that letter, is it not? A. That is all I know of.

Q. And that is founded, as the Attorney-General tells us, upon the last clause in section 1 of the act, to wit: "And shall make an annual report to the Superintendent of the Banking Department."

Mr. TRACY — He was examining him about the interpretation of the passage in the Attorney-General's opinion, where he gives the opinion generally that they are bound to report, and does not assign what law makes them.

Mr. MCGUIRE — The question is not whether the bank is obliged to make a report so as to come in conflict with the Attorney-General's opinion, but what construction the Bank Department gave to the law in case the bank refused to make the report, and that you have explained.

Senator PRINCE — Do you know of any other institution in the State where a bank has been formed under an act like this since the constitutional provision was adopted? A. No, sir.

Mr. CHAPMAN — This is the only one that stands in the same relation to the bank or any other department of the State government? A. So far as I know.

Q. Passed in 1868? A. Yes, sir.

Q. Mr. Ellis did go down there and attempt to examine this bank, after these letters, as you understand it? A. He went down there in regard to this business.

Q. And came back with this opinion? A. Yes, sir.

Q. Right along, or immediately after the bank failed; that is your understanding, is it not?

Mr. TRACY — We will see.

Mr. CHAPMAN — The Senators over those three pages will find the history of the whole thing.

Re-direct-examination:

By Mr. TRACY:

Q. You say you have some more papers about it, then? A. Yes, sir.

Q. I would like to know what they are; the papers are all about that period; any more opinions from anybody? A. Yes, sir.

Q. Let me see what you have got then?

The WITNESS — There is an opinion.

Q. Have you any other communication to the department? A. A letter from Mr. Russel, the president.

Q. Read this letter from Mr. Russel.

Witness read letter from Mr. Russel, president, to Mr. Ellis, Superintendent of Bank Department, dated April 13, 1876.

Q. What day was it received? A. It is not filed, Mr. Ellis brought it up to the office when he returned; I could not tell you the day.

Q. Did he bring that with the opinion of William F. Tracy — with the copy of his opinion? A. Yes, sir.

Q. Do you know whether sometime previous, in 1874, there was any correspondence from anybody in the bank, on the subject of reporting? A. There was an effort made to compel this institution to report in 1874, when this law was passed, which has been referred to, chapter 374, and there was some correspondence between the bank and the department at that time.

Q. Can you find that correspondence? A. I have not it here; it does not appear, in the search for the papers, to be on file.

Q. Do you know it is in existence in some stages of the inquiry before? A. There was a letter that came in the office in reply to the call for report.

Q. Who was it from? A. Mr. Scribner, the counsel for the bank.

Q. Will you state the substance of what Mr. Scribner sent or said if it cannot be found now? A. He said that this institution in some respects was doing a peculiar business, like loaning upon personal property, or loaning upon life insurance policies, and they felt that publicity might injure the business of the institution, and they did not desire to report, and if Mr. Ellis would come to New York they would consider this question of liabilities.

Q. About what time in 1874, was it? A. I think it was in June or July.

Q. June or July, 1874? A. Yes, sir.

Q. That was after the act of 1874 was passed; when was that letter last in the office of the department, to your knowledge? A. I do not know that I saw it after its receipt.

Q. Was not that clear down to the time this investigation commenced before the committee? A. Not to my knowledge.

Q. Did Mr. Ellis send a commission out to examine this bank? A. Not in 1874.

Q. Did he in 1875 or 1876? A. No, sir.

Q. Did he ever send one? A. No, sir.

Q. There was no commission prepared, but he went himself; did not he prepare a commission for somebody to examine it? A. There was a commission issued to Mr. Reid to examine the institution; I guess it was made in March, 1876; that I had forgotten.

Q. Who made such commission and signed it? A. Mr. Werner, the clerk made the commission, and I signed it; Mr. Ellis was away when it was made; it was done, I may say here, after the receipt of Mr. Coleman's second letter, and after the receipt of your [Mr. Tracy's] letter, and there seemed to be a considerable inquiry, and the Attorney-General first gave an oral opinion.

Q. After the receipt of the three letters you gave the commission to Mr. Reid to examine it? A. Yes, sir.

Q. You had received the Attorney-General's opinion before that?

A. I issued the commission before I had the written opinion of the Attorney-General; he had given me an oral opinion in March.

Q. Oral opinion to the same effect? A. Yes, sir.

Q. What became of that commission? A. Mr. Reid returned it to the office some time afterward.

Q. Without any examination attached? A. Yes, sir; returned simply the commission.

Q. Where is it now, sir? A. I do not know.

Q. Have you looked for it? A. When we looked for the papers during the former trial, that was looked for too, but it was not found.

Q. Did Mr. Reid make any written communication on the return of this commission, or in connection with it, as to why he did not serve in an examination? A. Mr. Reid's letter has been put in, which reported his action, and his failure; the letter was dated April sixth.

Q. That was the letter that came in reference to this very commission? A. Yes, sir.

Q. Mr. Ellis was absent at this time; was he? A. Yes, sir.

Q. Was Mr. Ellis at New York at the time you sent off the commission to Mr. Reid? A. No, sir.

Q. Where was he? A. He was at Rochester.

Q. Did he return from Rochester shortly after that? A. I think he came back from Rochester on the first of April; a little after the first of April.

Q. How long did he stay at Albany then before he went away? A. I should think he stayed during the first week in April, and went down to New York the second week.

Q. How long before he came back? A. I think he came back the same week.

Q. Did you learn from him that he had been spending that time in New York, or had he been travelling farther? A. I do not know any thing about that; he did not tell me where he had been, except New York.

Mr. CHAPMAN — This stay at Rochester was only a temporary stay of two or three days; that is his home; is it not? A. Yes, sir.

Jeremiah Wintingham being duly sworn on behalf of the people, testified as follows:

Examined by Mr. TRACY:

Q. Where do you reside? A. Brooklyn.

Q. Are you the receiver of the Loaners' Bank? A. I am.

Q. When were you appointed? A. I think it was the twentieth of November last.

Q. The twentieth of November, 1876? A. Yes, sir.

Q. How long after your appointment did you enter upon the duties of your office? A. Within a few days; two or three days.

Q. Have you looked into the affairs of that institution since your appointment? A. Yes, sir.

Q. Were you acquainted with it before? A. No, sir.

Q. State, generally, whether you did this work in person, or had some other person in your employment to do some work for you? A. The work was mostly done by a young man in my employment.

Q. Was he one who had known about the institution when it was in operation? A. Yes, sir; he had been in the bank the most of the time the bank was in existence, I think.!

Q. So far as you know, I want to ask you what result you arrived at as to the amount of assets the bank had; the value of them at the time it stopped? A. Nominal or real?

Q. Real?

Mr. McGUIRE—We may have to ask a question or two from Mr. Tracy for the purpose of determining the materiality of this testimony, with your permission?

Mr. TRACY—Of course.

By Mr. McGUIRE:

Q. You were not the first receiver of this bank, were you? A. No, sir.

Q. Who was the first receiver? A. John F. Hubbard.

Q. When was the first receiver appointed? A. About the second of May.

Q. About the 2d of May, 1876? A. I believe so.

Q. How came Mr. Hubbard out of the receivership, and you in? A. I believe he petitioned to be released.

Q. He petitioned to be removed? A. I believe so.

Q. And he was removed by order of the court, upon his own application? A. I so understood it.

Q. And you appointed? A. Yes, sir.

Mr. McGUIRE—We feel called upon to object to any proof of what this gentleman found, in respect to the assets, after being several months in the hands of a prior receiver. I do not understand that follows, within the rule of the Senate, to allow one receiver for several months to manipulate the assets, and then call the second receiver to show what the first receiver got or did.

Mr. TRACY—Mr. President, I believe that is not properly a preliminary objection; we can prove, by this witness, what he found when he came into possession, and what the condition of affairs was then, and we can call the other one to prove the condition when he came in; and we can also call the clerk of both who was originally in

the bank as book-keeper, and between these two or three gentlemen, I think, we can get at the facts to the satisfaction of the Senate ; it may be said, if we can prove what he found in it, that might leave it open possibly to the objection that there was more in it that had been accounted for prior to this entering, but that hardly would be presumed against a public officer, a receiver of a bank, without proof, and the court would not declare this was inadmissible, to examine him now. If any thing should appear that it was proper to call the other receiver, we could call him afterward ; I understood this receiver could not tell much about it, that his clerk had extraordinary qualifications—had been the book-keeper of the bank, and could tell more about it, but I deemed it proper to show what he could say about it before I called the clerk.

The President submitted the question to the Senate, and it was decided to receive the evidence.

Q. State, generally, what amount of assets you found in nominal and in real value ? A. I never figured up the nominal value ; the real value, I thought, was very low.

Q. State the sum you put it at ? A. It may be \$10,000 or \$15,000.

Q. What amount of liabilities of the Loaners' Bank did you find ? A. About \$230,000.

Q. In that do you include the liability to stockholders, or only to creditors ? A. Only to creditors.

Q. Did you find any of the assets under pledge elsewhere ? A. Yes, sir.

Q. What kind of assets ? A. Jewelry, mostly ; diamonds.

Q. For what amount had been pledged to this bank ? A. For five thousand dollars.

Q. Where ? A. With Turner & Co.

Q. Were those diamonds and jewelry pledged to the Loaners' Bank on a loan ? A. Yes, sir.

Q. Did you find any other assets or property or securities of any kind which this bank had pledged away ? A. No ; I believe not.

Q. In speaking of these assets pledged that did not come to your hands, will you state whether, in your computation of the resources of this institution you allowed, there was any margin on those pledges, or were they articles pledged for all they were worth ? A. No ; I allowed nothing for a margin.

Q. In your judgment will there be any margin on those pledged things ? A. No, sir.

Q. I would like to know if you found among the assets of this bank ; any judgment against any savings bank—any kind of claims against any savings bank ? A. I think not ; I am sure there was not.

Q. Among the assets of this bank, did you find any account of any

dealing between them and a savings bank having a balance standing either for or against the Loaners' Bank ? A. Yes, sir.

Q. What was that ? A. I do not recollect but one ; there may be others.

Q. What one was that ? A. The Abingdon Square.

Q. Which way was the balance there ? A. It was in favor of the savings bank.

Q. What amount ? A. Twenty dollars and eighty-six cents ; it appears to be running back to the first of April to the same amount.

Q. State how far back that balance of twenty dollars and eighty-six cents in that bank extended in the books ? A. First of February.

Q. February, 1876 ? A. Yes, sir.

Q. What other month following ? A. March, April and May — and fifth of May.

Q. You say this book you have in your hands does not give any dates earlier than February ? A. No, sir.

Cross-examination :

By Mr McGUIRE :

Q. What is your occupation, Mr. Wintingham ? A. Letting houses and offices, collecting rents at present.

Q. Was that your business at the time you were appointed receiver ? A. Yes, sir.

Q. Is this book the only paper, the book which you have here, relating to this Loaners' Bank ? A. No, sir.

Q. When you speak of the value of the assets you speak of what the former receiver passed over to you, don't you ? A. Yes, sir.

Q. Give us some information as to the general character of these assets that you have spoken of, their general character, what they consist of ? A. There were stocks, bonds, life insurance policies, some watches and other jewelry, besides what were pledged.

Q. What else ? A. There was some real estate.

Q. I am speaking of jewelry ; you spoke of jewelry, of watches and some other jewelry ; what kind of other jewelry ? A. Rings watch chains.

Q. Finger rings ? A. Yes, sir ; there was some silver plate.

Q. Have you a schedule there of what Mr. Hubbard passed over to you ; is that a schedule ? A. I have in that book ?

Q. You have in the book a schedule ? A. Yes, sir.

Q. Of what the former receiver passed into your hands ? A. Yes, sir.

Q. I would like to find out about the finger rings and watch chains ; you lump them altogether, and some stocks and other things, and

called it fourteen or fifteen thousand dollars, I understand you? A. Yes, sir.

Q. Have you those finger rings and watch chains, etc., still on hand? A. Yes, sir.

Q. The market pretty dull for such kind of property? A. I should judge so from my experience.

Q. About as dull as real estate? A. Just about, I guess.

Q. Just turn to that and see what the schedule is? A. Here we have it, commencing here and going down there several pages.

Q. The receiver did not pass any money over to you, I suppose? A. No, sir.

Q. Have you sold any of this property mentioned in this schedule? A. I have parted with two or three life insurance policies.

Q. Sell them for the amount of the loan, or at a discount? A. at the price the insurance company would pay for them.

By Mr. TRACY:

Q. That is what is called "surrendered value?" A. Yes, sir.

By Mr. McGUIRE:

Q. The question was whether it was for the amount of the loan, or less—they loaned upon the policy? A. No, sir.

Q. The books of the bank show the amount of loan upon that policy, I suppose? A. I think it is less.

Q. You transferred or surrendered to the insurance company for less than the amount of the loan? A. I believe so; yes, sir.

Q. What other property have you disposed of besides the insurance policy? A. Some chairs, paintings.

Q. Did the chairs belong to their office? A. Yes, sir.

Q. They were paintings hung up in their banking office? A. Yes, sir; there were also two tables.

Q. A part of the furniture of the office? A. I can tell what I sold by referring to the list there.

Q. What you have now mentioned is the furniture of the office that you disposed of? A. Yes, sir.

Q. Any other articles that you can think of? A. No, I believe not; oh, yes, sir, there was some jewelry which I surrendered to the owner for less than the amount pledged.

Q. That is to the pledgor for less than the amount the bank had advanced upon it? A. Yes, sir; it was more than it was estimated to be worth.

Q. Did you look at the law under which this bank was incorporated, and see what power you had in regard to loans and pledges? A. Yes, sir.

Q. Let me call your attention to a section or two, and see whether you recollect whether you acted under it; section 7 of the act.

Mr. TRACY — Is that the pawnbrokers' act?

Mr. MCGUIRE — Yes, sir.

Mr. TRACY — He is not bound by that; I do not suppose the Supreme Court could take away the rights of a person dealing with a bank, unless that person is before the court in some way; "all loans shall be on a time fixed, and not over one year, and the pawner shall have a right to redeem his property pledged at any time within the specified time, on payment of the loan and rate of compensation at the time of offer to redeem;" then section 8 reads: "If the property pledged is not redeemed within the time limited, the same shall be sold at public auction, and in case of a surplus after paying loans, charges and expenses of all kinds, it shall be held one year for the owner, and if not then called, shall go into a fund for a year when the entire forfeiture takes place."

Q. Do you recollect all these provisions of the law? A I read them; I don't recollect every thing.

Mr. TRACY — Section 9; "All losses on loans from failure of title, or other cause, and all losses by theft or fire, shall be satisfied from said profit and loss fund;" I do not know whether the bank would be required to report the number of rings, etc., to the Bank Department or not; I was looking to see what its report should be.

Q. You say you disposed of a lot of jewelry, for a less sum than the loan upon it? A. I did.

Senator WOODIN — Mr. President, I move that when the Senate adjourn it be to meet at 10 o'clock to-morrow morning.

The motion was carried.

Senator WOODIN — I now move that hereafter the Senate meet at 10 o'clock in the morning until further ordered.

The motion was submitted and carried.

Q. What kind of stocks did you have? A. Do you want the name of the stock?

Q. Yes, sir? A. Well, I should have to run it over here; stock of Milwaukee and Minnesota railroad.

Q. What else; I do not care about each item; give a general idea of the stocks? A. Of the names of stock? I can refer to another paper and read them off to you.

Q. Refer to the paper — that is the best way; I do not care about the details of it; give us some of the names of some of the stock.

A. I thought I had it here, but I left it down to the hotel; Lake Superior Ship Canal and Mining Company; I cannot tell without looking at the book, whether they are bonds or stock, but whatever they are there is of about equal value; one or two cents.

Q. Of no value? A. Of about as much value as that quality of old paper is worth; Pioneer Loan and Trust Company, Denver and St. Joseph Railroad Company, Little Erie and Fort Smith Company, New Hampshire Lumber Company, Hydro-carbon Gas-light Company, both New York and Jersey —

Q. Did you have any mortgages on real estate? A. Yes, sir.

Q. Where was the real estate, or supposed to be? A. There was a mortgage on Highland Park, on the Hudson river, I think, for about \$12,000, if I recollect right; a second mortgage.

Q. Any more mortgages? A. No; I do not think of any other mortgages at present.

Q. You have given us the stock and mortgage and the jewelry; that constituted the assets of the bank did it? A. There was some real estate.

Q. Where was the real estate? A. Some down near Tom's river, in New Jersey; there is land in Missouri; some building lots in Indianapolis.

Q. The bank held deeds for this property, did it? A. I believe there is a deed for the whole of it now.

Q. To sum it all up, it was a kind of pawn shop, and that was all about there was of it? A. I should think so.

Q. Have you ever had a meeting of the creditors? A. No, sir.

Q. Did you ever make any offer to distribute this jewelry among creditors? A. No, sir.

Q. You say you had some books down at the hotel, did you bring the assets of the bank up with you? A. I brought no assets; the books are here.

Q. The assets you left at home? A. I did not like to trust myself with them.

Adjourned to Thursday, August 2, 1877, 10 A. M.

SARATOGA SPRINGS, Aug. 2, 1877 — 10 A. M.

The Senate meet pursuant to adjournment; a quorum present.

Mr. Wintringham was called, but did not respond.

Mr. TRACY — Mr. President, we will examine Mr. Hun, now in the absence of Mr. Wintringham.

Marcus T. Hun, having duly affirmed on the part of the State, testified:

By Mr. TRACY:

Q. You reside at Albany? A. Yes, sir.

Q. Were you deputy Attorney-General, and when? A. I was in 1872 and 1873, and during the first half of January, 1874.

Q. Do you remember the proceeding against The People's Savings Bank? A. I see by the register; I have some remembrance that there was such a suit brought.

Q. In 1873? A. Yes, sir.

Q. Do you remember when the complaint was made, that you were present and knew about it? A. I have a memorandum about it; I state that from the register; I have no remembrance, of course, of the date.

Mr. MCGUIRE—Is the entry on the register in your handwriting? A. No, sir; it is in Mr. Satterlee's handwriting, who was a clerk there in the office.

Mr. TRACY—You saw the register from time to time as it proceeded, how is that? A. I am satisfied from some of the papers which are in my handwriting, substantially about the date, and within a month.

Q. Just state when it was commenced? A. I see that the summons and complaint was served in New York on the president of the bank, September 27, 1873; I think that we sent a summons and complaint to New York to be served with a notice of motion for a dissolution of the corporation; at all events, for the appointment of a receiver and for an injunction, and the sheriff failed to serve the notice of motion in time for the Special Term, for which it was, and then we got a notice to show cause, which, I think, was granted by some judge in Albany on an affidavit stating that the sheriff had not served the other papers, and that is the way the motion was to be brought on, on that order.

Q. Do you recollect then that there was a stipulation postponing the motion? A. I see, September twenty-fifth, that such a stipulation was given, and I also have a remembrance of a stipulation having been drawn up.

Q. That stipulation carried it down to what time? A. That was a stipulation adjourning the motion for an injunction, and for an appointment of a receiver until the Special Term to be held on the last Tuesday of October, 1873, at Albany.

Q. Do you recollect whether the thing was moved on the last Tuesday of October, 1873? A. I have no remembrance of that; my judgment is, from the examination I have made, that it was not.

Q. Do you find any entry anywhere showing whether there was any specific adjournment of it? A. No, sir; I do not.

Q. You have noticed upon the register of the Attorney-General, after that date, the penciled word, "Settled," written some little way down? A. Yes, sir; I noticed that.

Q. Do you know when that was put there? A. That is in my

handwriting, and I think it was put there about the middle of January, 1874 ; I was asked, I think, by Mr. Fairchild (at least by some one) to make a memorandum on the cases appearing in the register that did not require affirmative action on the part of the Attorney-General, and I wrote "settled" under that case and under quite a number of others ; I remember going through the register ; further than this stipulation, I think it was never settled ; I know of no other proceedings having been taken in the suit, as I remember the officers, or some of the officers of the bank, came up from New York after the summons and complaint had been served and before the stipulation was made, and asked for delay, they having already given a bond, I think, to the Superintendent of the Bank Department to pay a certain amount of this deficiency, and agreeing to make up the residue of the deficiency at that time ; and I think it went so far as to have the amount to be given by the respective trustees stated, and on that statement of the trustees, the Bank Department thought it was wise to delay further action in the suit, so, if possible, the money might be recovered from the trustees of the bank, and this stipulation was made at that time with the understanding that they were to make up that deficiency.

Q. Was it with the further understanding if they made up that deficiency the proceeding could be discontinued ? A. I suppose that was implied ; I don't think there was any understanding in regard to the matter.

Cross-examined :

By Mr. McGUIRE :

Q. That deficiency, Mr. Hun, to be inferred from the stipulation, at least, was to be made up to the last Tuesday of October ? A. Well, no ; I don't know that there was any agreement as to the specific time, for the motion was to be postponed until that time and might be brought on at any time within that on the notice being mailed to the parties.

Q. You have stated, I understand, already, that the stipulation was made in view of the contemplated arrangement of the bank officers to supply the deficiency ? A. Yes, sir.

Q. There must have been some occasion or necessity for putting a definite time in the stipulation ; this is from September until the last Tuesday in October ; can you call to mind why the last Tuesday of October was put in there ? A. I think the motion was noticed for the last Tuesday in September, because this was on the twenty-fifth this stipulation was made, and they had no opportunity before that motion would come on to pay any money into the bank ; but I don't know that there was any definite time fixed in which they were to

pay it up; it was in the discretion of the superintendent, I understood, and if they had shown a disposition to make up the deficiency, further adjournment would have been made.

Q. Whatever arrangement, whether implied or expressed, was made with the concurrence of the Attorney-General, I suppose? A. Do you mean General Barlow?

Q. Yes, sir? A. I don't think he had any knowledge of the suit whatever.

Q. Or some person representing the Attorney-General's office? A. Yes, sir; I concurred in it as far as that; you mean that I used my own judgment about it?

Q. Yes, sir? I had no judgment about it; the Superintendent of the Banking Department thought it would be wise to allow them to make up this deficiency, and on his suggestion the motion was adjourned.

Q. You concurred in that? A. I gave way to his better judgment; I thought he knew better about the banks than I did.

Q. You assented to it by not carrying on the proceedings any further? A. Yes, sir.

Mr. Tracy asked if Mr. Wintringham had arrived yet, and then stated that he was reported to have gone home, although he was in the midst of answering a question at the time of the adjournment last night.

Mr. CHAPMAN—We don't want him any more any way.

Samuel H. Clark, having been duly sworn, testified as follows:

By Mr. TRACY:

Q. Were you a book-keeper of the Loaners' Bank? A. Yes, sir, I was.

Q. When did you commence? A. The 1st of July, 1871.

Q. How long did you continue? A. Until the bank closed.

Q. Were you book-keeper to the first receiver? A. I was.

Q. And to the second receiver, down to this time? A. Yes, sir.

Q. About how long had the bank been in business before you were made book-keeper? A. I think about nine or ten months.

Q. When you came into the place, sir, did you find any books of account in use at the bank? A. Yes, sir.

Q. Well, what? A. When I first went to the bank?

Q. Yes, sir. A. Do you want all the books named?

Q. Tell what account-books they kept at that time? A. There were all the books that it is customary to keep in a small bank; ledgers, journals and day-book.

Q. You had access to them, didn't you? A. I did.

Q. You continued on from that time keeping such books as you thought were necessary? A. Yes, sir, I did.

Q. How long had those books been in operation before you came?

A. I think about eight or ten months.

Q. How long were they continued after you came there? A. Until the 3d of May, 1876.

Q. Can you state now how much capital was paid in; I will mention the fact to the gentlemen, as I proceed, that by the charter, on the subscription of \$500,000 capital, and the payment of \$200,000, the bank might continue.

Mr. MCGUIRE — He can't know all about it except from the record.

Q. How much capital was subscribed to the bank? A. Five hundred thousand dollars.

Q. Will you state whether the \$200,000 was ever paid in, and if so, how? A. There was about \$80,000 paid in.

Q. In money? A. I believe it was money, and the other \$120,000 the stock was left in the bank as collateral for loans.

Q. Forty per cent paid shares issued and taken back as pledges for the money? A. Yes, sir; I believe the money never was paid in, but the ownership of the shares were assumed and they had a loan made to them, and the shares left in the bank as security.

Q. Were these loans made on notes or bonds, or simply on the pledge of the shares?

Mr. CHAPMAN — Mr. President, I object to the question and all this line of examination, on the ground that it is entirely immaterial and cannot in any event affect the superintendent. I wish to say simply a word, not taking up the time of the Senate in regard to it. Now, in the case of the Loaners' Bank, we find the bank incorporated in 1868, and no one claims but down to the law of 1874 the Bank Department had control over it. After the law of 1874 the Bank Department could not have had any control over it, and the Bank Superintendent, nevertheless endeavored to make an examination of this bank. He did not succeed in getting in to make the examination. It appears in the evidence that he tried to make it, but failed to make it because they would not allow him to make it. He came back to report to the Attorney-General in regard to it and have his right to make the examination tested in the courts, and before that could be done the bank failed. Now the question in this case to be passed upon by the Senate is, whether he should have made the examination before he attempted to make it, or whether he should not. The fact of his not having made the examination, and the fact that he did not discover what there was in there, certainly could not effect him here in this case. The question is whether he ought to have made it or not. How can it be material, in any way to introduce evidence as to

what could be found in the books. If he is guilty of negligence, it is in not making the examination ; certainly he cannot be guilty in not discovering what there was not in the books when he could not get in to make the examination. The question in this case, as far as the Loaners' Bank is concerned, must be whether he ought to have made the examination under the law or not. If the Senate should hold that he ought to have made the examination under the law, then the charge, so far as this bank is concerned, it seems to me is proven, waiving the question of his judgment as to whether, under the law, he was required to make it or not. If, on the other hand, the Senate should hold that he under the law, could not have made the examination or enforced it, then this evidence has no significance and no materiality and no bearing, it seems to me. I am sorry to take the time of the Senate in regard to this, but it seemed to me that the simple suggestion would save the time of the Senate, so far as the reception of this evidence was concerned.

Mr. TRACY — Mr. President, this is —

Mr. CHAPMAN — I withdraw the objection if there is to be any discussion. I honestly made the suggestion with the idea of saving the time of the Senate.

Q. I was asking whether the pledges of these forty per cent certificates of stock were made with or without any note or other obligation of the persons pledging them ? A. There was an agreement made between the bank and these parties, signed by the parties ; an agreement to pay the loan in full, with interest, and pledging any property which might be in the hands of the bank for the payment.

Mr. McGUIRE — I should like to inquire whether this witness is stating facts from his knowledge, or stating something he has derived from records ; now, which is it ?

Q. Have you seen these documents ? A. I have.

Q. Will you state how many of those pledges were redeemed by payment afterwards ?

Mr. McGUIRE — I suggest if there are agreements that the witness has seen they should be produced before any evidence is given.

The PRESIDENT — Was the counsel for the State asking for the contents of these papers ?

Mr. TRACY — I am indifferent whether the agreements are in or not. I want to ask whether the money was ever paid or not on those certificates.

Mr. McGUIRE — Well, now, I must raise the question again, that the witness cannot have any personal knowledge of this. It must be derived from his examination of records. If so, let us see what the record is.

Mr. TRACY — It is his personal knowledge I ask for.

The PRESIDENT — It depends upon the fact whether the witness has knowledge.

Q. State about it? A. There have been small amounts paid on some of these; on a majority there has never been any thing paid.

Q. And the majority remain as they were? A. Yes, sir.

Q. Can you say about how much was paid on those that you say were some part paid.

By Mr. CHAPMAN:

Q. Do you know of your own knowledge as to payments, or simply what you find in the book? A. I know from seeing parties pay and the papers being made out at the time of the money being passed over.

Q. Where are the papers? A. In New York.

Mr. TRACY — We will fetch them here if you want them.

By Mr. TRACY:

Q. Can you state about how much was paid under his arrangement; state as near as you can? A. I couldn't form any definite idea how much there was paid; I should say from \$5,000 to \$15,000.

Mr. McGUIRE — If you can't state, witness, I would not guess.

Mr. TRACY — Well he says from \$5,000 to \$15,000.

Q. You say you were clerk or book-keeper to the first receiver; give his name if you please? A. John F. Hubbard.

Q. How long was he receiver? A. From May third to November twentieth.

Q. Of the same year? A. Yes sir.

Q. Did all the assets of the bank come to his hands when he went in? A. Yes, sir.

Q. Can you tell how much he realized out of them? A. From what money there was on hand and what he collected?

Q. Yes, sir?

Mr. McGUIRE — Now, Mr. President, I must object to this constant parol evidence to the contents of papers. If the evidence has any materiality at all we are entitled to the best evidence on the subject.

The PRESIDENT — It depends upon the knowledge of this witness. As clerk of the receiver, he may know what was received; if he only knows from the books, it is calling for the contents of records.

By Mr. McGUIRE:

Q. I assume that if the receiver received money he did not always do it in presence of this witness, and his witness count the amount he received. Allow me to ask preliminarily: Were you present every time the receiver received money, and ascertained the amount from your own knowledge? A. I think I was.

Q. And you counted the money? A. I have always counted what money I knew of his receiving; he always handed it to me to count.

Q. Did you make any memoranda about it? A. Nothing except on the books after I counted it; after I counted it I made a memoranda on the books.

Q. The date and amount received by you and the person from whom received? A. Yes, sir.

Q. And the property from which it was realized? A. Yes, sir.

Q. Where is that book? A. In New York.

Q. Were you subpoenaed to produce the papers from this bank? A. I was not; the receiver was subpoenaed.

Q. And did not bring the books and papers he was subpoenaed to bring; is that it? A. I picked out what books I supposed would be wanted.

By Mr. TRACY:

Q. State from your recollection about how much money Mr. Hubbard, as receiver, realized in cash? A. About \$6,000.

Q. Can't you state whether or not he handed over the residue of the securities to the next receiver? A. Yes, sir; he did.

Q. Now, can you state how much the next receiver (Mr. Wintringham) has realized? A. About \$6,000.

Q. That is in addition to the \$6,000 Mr. Hubbard got? A. Yes, sir.

Q. Can you speak from recollection whether there was a transaction of the Loaners' Bank of a pretty large amount with the Continental Life Insurance Company? A. There was.

Q. What was it in its nature, generally; which company was borrower and which was lender, and what was the nature of the transaction, generally?

Mr. CHAPMAN — Does that make any difference? Mr. President, without making any remarks in regard to it, or taking any time in regard to it, I wish an objection to be entered to that testimony, on the ground that it is immaterial and improper.

The PRESIDENT — The Chair did not hear the question distinctly, and has not heard the conversation exchanged between the counsel in regard to the proposition.

Mr. TRACY — I will state to the President that the witness has answered that there was a large transaction between the Continental Insurance Company and the Loaners' Bank. The question I asked was, what was its nature, whether a loan or a deposit.

The PRESIDENT — This is an inquiry into the character of the assets?

Mr. TRACY — Yes, sir.

The PRESIDENT — Does the counsel for the defense make objection upon the ground which the counsel stated a few moments ago to this line of inquiry ?

Mr. CHAPMAN — Well, on that ground and on the ground that the respondent here has no knowledge, and has had no knowledge, and no opportunity of knowledge, in regard to it, and cannot be chargeable with it. It is a transaction also between third parties.

The PRESIDENT — If the counsel for the respondent press the objection which was made by the counsel for the respondent a few moments ago to the whole range of inquiry the Chair will submit that question to the Senate. Does the counsel for the State desire to be heard in regard to it ?

Mr. TRACY — I would like to be heard. In regard to all these subjects, there are two lines of inquiry: One is as to the conduct of the head of this department (Mr. Ellis), and the other is as to the institution itself — its insolvent, or otherwise desperate and bad condition, and the two inquiries have been treated as entirely distinct. In this case the evidence in respect of Mr. Ellis' conduct is completed so far as we are concerned, with the exception of one witness, of whom I will ask a question shortly, but the inquiry to this present witness is merely to get at the condition of the bank. If I should show that Mr. Ellis neglected his duty, and the Senate could not see that it was of any consequence whether he performed his duty in the case or not, we have made out a frivolous case. In each case we have deemed it our duty to the Senate to present what is the real condition of the institution in regard to which we allege the neglect. In this case I do not suppose Mr. Ellis was there at all, but I desire to prove that as an indication of the condition of the bank at that time.

The President submitted the question to the Senate, and it was decided that it should not be received.

Mr. CHAPMAN — Mr. President, may I be permitted one word further ? The line of inquiry suggested here, I submit, opens just this field. If my friend is permitted to prove, in order to prove the condition of the bank, as he says, the dealing between this bank and the Continental Life Insurance Company, then he can go on and prove the dealings between this bank and each and every individual person dealing with the bank from the time of its organization all the way down. Now, of what possible significance on the issue in this case to be tried can that evidence have any bearing, except upon the press ? It does not seem to me that so far as the issue we have got up here in regard to the Loaners' Bank that it can have any bearing, as I said before. As far as this respondent is concerned, I do not suppose it

makes any difference one way or the other in regard to the evidence, but it seems to me we are opening a field of inquiry here which is boundless.

Mr. TRACY — We proved yesterday, and a great deal of time was taken up in cross-examining one witness upon the subject, that this bank had taken things which had been pledged by the pawnors, and pledged them elsewhere. They were cross-examining upon that when we closed. What I expect to show is, that this bank took \$201,000 of such securities as it had and went to the Continental Life Insurance Company and borrowed \$44,610.45, and that is another of the same kind of transaction as we have been showing. Yesterday we showed in regard to the diamonds, etc. This morning we have proved, or endeavored to prove other transactions. Now I want to add transaction of the same character as the evidence yesterday, and much larger items; that this large loan of money to keep the thing afloat was obtained from that company through the pledges that this bank had.

Senator SCHOONMAKER — Mr. President, just one single suggestion. Here was an institution (this bank) fearfully insolvent. It now appears—at any rate, the testimony is offered to show that another corporation (an insurance company, also insolvent), became complicated. Now, one question before the Senate is, what influences were at work about these institutions? What prevented an investigation? Those are fair subjects for our consideration. I only make these suggestions as a reason why this testimony seems to be competent.

The President submitted the question to the Senate, and the evidence was admitted.

Q. What was the transaction between those two corporations?

Mr. MCGUIRE — Does that transaction appear in writing?

Mr. TRACY — I ask about moneys passing; which received the money.

By Mr. MCGUIRE:

Q. Does the transaction appear upon the books of the bank? A. It does.

Mr. MCGUIRE — Then I object to it.

The PRESIDENT — If he speaks from knowledge obtained from the books of the bank, of course the books must be produced. If speaking from his own knowledge, he may testify from that.

Mr. TRACY — You will speak of what you know about it, and not of what you know from reading any book.

Mr. MCGUIRE — Or any entries upon the book.

Q. Which advanced the money and which received it? A. The Loaner's Bank received the money.

Q. From the Continental ? A. Yes, sir.

Q. What was the amount ? A. There were some regular deposits made by the Continental Company in the Loaners' Bank, and exactly what time the securities were taken into the Continental I do not know, and there were sums deposited from time to time by the Continental, and I cannot state what time these securities were taken in there.

Q. State about how much the whole sum came to ? A. Nearly \$45,000.

Q. And what amount of securities (collaterals) were turned over to the Continental ? A. Two hundred and one thousand dollars par value.

Q. What were they generally ; describe them ? A. General railroad bonds and stocks.

Q. Mention some of them ? A. There were some of the St. Louis, Alton and Terre Haute bonds, some stock of the New York and West Shore and Chicago Railroad, and some of the Continental Railway and Trust Company ; some Grand Central Bank of New York stock.

Q. Mention any others you recollect ? A. I do not think there were any others.

Q. Were these things that you thus turned over to the Continental things owned by the Loaners' Bank, or things there on pledge ? A. They were there on pledge.

Q. Did the Abington Square Bank keep an account with your institution ? A. They have had an account there ever since I have been in the bank.

Cross-examination :

By Mr. McGUIRE :

Q. Did you go into the employ of this institution upon its organization ? A. No, sir.

Q. Who preceeded you as book-keeper ? A. I was the first book-keeper.

Q. You then when into the employ upon their commencement of business ? A. I say I was the first regular book-keeper ; the paying teller had been in the habit of doing what book-keeping there was to do ; the business was very small.

Q. It continued small all the way through ? A. Well, rather.

Q. Who were the directors of the, or for courtesy sake, we will call it the " Loaners' Bank," when you went in there ? A. I do not know that I remember the names of all of them ; I can give the names of part of them ; there was John F. Hubbard, A. M. Bliss, G. Hilton Scribner, Thos. J. Creamer, Jas. F. Pierce.

Q. Michael Norton ? A. No, sir, he was not in.

Q. Jas. F. Pierce, of Brooklyn ? A. Yes, sir.

Q. Do you recollect any other ? A. I do not remember any others now.

Q. Were you the only person employed in or about the institution ? A. No, sir.

Q. How many employees were there ? A. Five.

Q. Their duties about the same as yours ? A. There was a paying teller, book-keeper's assistant, messenger, office boy, and myself.

Q. You received all kinds of property at that institution on deposit, did you not ? A. Very nearly.

Q. What was its general character, during the time you were there—that is, the general character of the property ? A. Watches, jewelry, bonds, stocks, mortgages.

Q. You had no "*live stock*," such as horses or cattle ? A. Yes, sir.

Q. You had ? A. Yes, sir.

Q. Then you had about every thing ? A. Pretty near.

Q. Animate and inanimate in this bank on deposit ? A. We had a span of horses, but we did not keep them in the bank.

Q. You kept those to draw the jewelry to the bank, I suppose ? [No answer.]

Q. Where was this jewelry you speak of kept ? A. In the vault in the banking room.

Q. You had a bank large enough to hold it—or a vault large enough ? A. Yes, sir.

Q. How much, in estimated value, did you have at one time of this species of property ? A. Of jewelry ?

Q. Yes, sir ? A. I think there have been times we have had \$50,000 worth nearly ; forty odd thousand, say.

Q. What would be about the amount of the loans upon that \$50,000 of jewelry ? A. About \$35,000, I should think ; thirty or thirty-five.

Q. There is considerable of that jewelry on hand now ? A. There is some ; very little.

Q. That has not been redeemed by the pledgor ? A. Yes, sir.

Q. And under the charter of the bank that becomes forfeited to the bank, if not redeemed within one year, does it not ? A. I cannot say as to that ; I think that the charter provides it shall be sold.

Q. How much in quantity of this kind of property did the bank have at the time of its failure ? A. I should estimate the value at about \$5,000 or \$6,000 ; hardly as much as that.

Q. Did this bank, during the time of its existence, have any stocks that had market values, or was it these *wild-cat* stocks you have spoken of, and these western contemplated railroads ; do you know of any stocks that they held that had a market value ?

Senator WOODIN -- Do you mean stocks they held and absolutely owned ?

Mr. MCGUIRE — Either.

Q. I will put it, first, that the bank owned? A. I do not think they ever owned any.

Q. That they received on deposit as collateral for a loan; did they have any stocks as collateral for loans that had any market value in the city of New York? A. Yes, sir.

Q. Can you call to mind any stock that had value? A. I do not know that I can now.

Q. If they ever had any deposit, was the stock ever redeemed; do you know of any redemption of stock that was ever pledged to this bank? A. Yes, sir; I know there has been.

Q. Was it a usual or unusual occurrence for the redemption by the pledgor? A. There was a large majority of the loans made on stocks which were paid.

Q. When there was good stock pledged it was redeemed; do you mean that? A. Yes, sir.

Q. And if not good it was unredeemed? A. Sometimes it was redeemed.

Q. Did the bank ever proceed to sell after the expiration of the year, unredeemed stocks, so as to get title? A. I do not think they ever sold any stock.

Q. Did they ever sell any stock after the expiration of the year, so as to perfect title to the stock? A. I do not know that they ever sold any to get title for themselves; they have sold it absolutely.

Q. To other parties, so that other parties got title under the proceedings of the charter. A. Yes, sir.

Q. When was this transaction with the Continental Insurance Company? A. There were two transactions with the Continental Insurance company.

Q. One that your attention was called to by the counsel for the State? A. That was a transaction continued along for two or three years.

Q. It was a continuous transaction, and not a single, isolated transaction between the two institutions? A. There was an agreement between the Loaners' Bank and the Continental Insurance Company.

Q. Is that agreement in writing? A. Yes, sir.

Q. The arrangement you testified to in answer to the question of the counsel for the State, was that agreement in writing? A. It was.

Q. And whatever was paid by the Continental to the Loaners, did it come into your hands? A. Not always; sometimes.

Q. Did you make an entry upon the book of what came into your

hands and what did not? A. Yes, sir; no, not what came into my hands; I made an entry of all their deposits on the book, but I made no memorandum of those which I received.

Q. Have you any recollection of the transactions aside from what appears upon the books? A. There was --

Q. Have you any recollection aside from the books? A. I have some recollection.

Q. Did you not, after you was subpœnaed to come here, look over these books to refresh your recollection? A. No, sir.

Q. Or to make statements from those books that you could testify to? A. I had no opportunity to do so.

Q. Then all you have stated is independent of reference to the books of the bank, is it? A. Independent of any late reference.

Q. A matter of memory that you had of the transactions? A. Yes, sir.

Q. Now you have spoken of the Abingdon Square Savings Bank, what was the nature of the dealing between that bank and the Loaners' Bank? A. I cannot tell you.

Q. To sum the matter up, was there at times a larger balance due from the Loaners' Bank to the Abingdon Square, or a balance of any considerable amount? A. The books at different times have showed a balance.

Q. And can you now state from memory whether the books at times showed a balance as high, say, as \$20,000 or \$21,000? A. I think they have.

Q. Can you state whether the Loaners' Bank furnished to the Abingdon Square Bank certificates of deposit representing certain amounts in Pawners' Bank? A. Certificates of deposit?

Q. Yes, or certificates representing that the Abingdon Square Bank had to its credit a certain amount in the Pawners' Bank? A. I cannot say whether they ever --

Q. Furnished to the officers of the Abingdon Square Bank? A. I cannot say whether they ever did or not.

Q. If this Loaners' Bank gave certificates of deposit, by whom were those certificates signed? A. By the president.

Q. It did not fall within your department of business to sign such papers? A. Not to sign them.

Q. Who was the president? A. Dow Russel.

By Senator SCHOONMAKER:

Q. Did you make them out? A. Part of them.

By Mr. McGUIRE:

Q. Did you keep a certificate-book in the bank? A. Yes, sir.

Q. Does that book show, if any, what books of certificate were issued to this bank? A. Yes, sir, it would.

Q. Have you a recollection that the book did show the certificates issued to the Abingdon Square? A. I have no recollection of any certificates.

Q. You have not looked at the books recently to see? A. No, sir.

Q. Was this certificate account kept by you? A. Yes, sir.

Q. You gave in addition to certificates of deposit—if a bank doing business with you had credit on your books, did you ever furnish banks a certificate; not a regular certificate of deposit, but a certificate that there was a certain amount to their credit upon your books?

A. I cannot say; if there had been any such certificate given it would not necessarily come under my notice.

Q. That would not go upon the regular account of the depositors? A. No, sir.

Q. And whatever papers representing certificates of any character were made out, or at least signed by the president, Mr. Russel? A. I believe so; there might have been some signed by the cashier.

Q. Have you a book here, say during the year 1875, representing the state of account between the Abingdon Square Bank and the Loaners' Bank? A. Yes, sir.

Q. Did the Abingdon Square Bank draw checks upon your bank from time to time, or don't you recollect? A. I do not recollect any papers being paid to the Abingdon Square.

Q. You have continued in this bank under Mr. Hubbard, the receiver? A. Yes, sir.

Q. He was a former trustee or director of the institution, I see? A. He was at one time; not at the time of its failure, though.

Q. Did this institution make reports to the Bank Department? A. I never knew them to make any.

Q. Do you recollect of Mr. Reid coming to the bank in March or April, 1876? A. I remember his coming to the bank; I cannot say it was in one of those months, but I should judge it was.

Q. Do you recollect Mr. Ellis coming there? A. No, sir; I do not.

Q. Did you ever see Mr. Ellis in the bank with Mr. Russel, the president? A. I have no recollection of seeing him.

Q. You recollect the circumstance of the opinion of Mr. Tracy being procured, that the bank was not subject to the jurisdiction of the Banking Department? A. Yes, I recollect that circumstance.

Q. Do you not recollect of seeing Mr. Ellis around the bank at that time, in consultation with Mr. Russel? A. No, sir, I do not; I never saw Mr. Ellis to my knowledge, until here, when he has been pointed out to me.

Q. You declined to allow Reid to examine the bank? A. I can't say ; I have understood from the cashier that the president refused to allow him.

Q. How many times did you see Reid there that spring, wanting to examine that bank? A. Well, I don't know Mr. Reid, but I saw a gentleman there that I was told was Mr. Reid.

Q. The bank examiner? A. Yes, sir.

Q. How many times did you see the bank examiner there during the months of March and April of that year? A. I have no recollection of seeing him but once or twice.

Q. You understood that Mr. Ellis was there in April, 1876? A. I don't think I ever heard he was there.

Q. But you knew that the officers of the bank declined to allow an examination? A. I understood so.

Q. Now didn't you understand that the superintendent was going to procure the opinion of the Attorney-General as to the right of the defendant to examine his bank? A. No, sir ; I don't think I heard it.

Q. Didn't you hear it talked up, that notwithstanding you furnished Mr. Ellis with the opinion of the counsel, that he had no jurisdiction over the bank ; that Mr. Ellis informed the officers of the bank that he should put the matter into the hands of the Attorney-General to institute proceedings in the courts to ascertain his powers over this institution, and then, as soon as Mr. Ellis could get to Albany after that interview, the bank went into liquidation ; don't you know that? A. No, sir, I don't know that ; I was told by the cashier that the bank would not be examined ; they had shown the examiner the opinion of Mr. Tracy, and that was satisfactory.

Q. That is satisfactory to the examiners? A. Yes, sir.

Q. Didn't you hear, and I want to call your attention specifically to it, that Mr. Ellis had been here (I speak of what you heard in the bank) and was going home and going to test his power through the Attorney-General over this bank? A. No, sir ; I did not.

Q. Can you give any reason then why that bank went into liquidation immediately after Mr. Ellis left there?

Mr. TRACY — He has not said that Mr. Ellis was there yet.

Mr. MCGUIRE — I assume from all the testimony in the case that he was there.

Mr. TRACY — I object to the question being put which involves a statement of fact not within the knowledge of the witness, as a means of fixing the time ; if the counsel desires to ask *why* they went into liquidation, that is one thing, and if *when*, that is another ; he could not begin by assigning a reason which the witness knows nothing about.

Mr. MCGUIRE — The testimony already shows that Mr. Ellis was

there the latter part of April, 1876, and it further shows he informed the officers of this bank that he was going to procure the opinion of the Attorney-General, and not only his opinion, but was going to have a suit instituted for the purpose of testing his power, and as soon as he could get back to Albany this bank liquidation.

The PRESIDENT — This witness, as the Chair remembers it, has testified that he did not know of Mr. Ellis being there.

Mr. MCGUIRE — I am aware of that.

The PRESIDENT — How can you predicate an opinion of the witness upon a fact of which he has no knowledge ?

Mr. MCGUIRE — Well, it is in the case. I don't assume it because it is in the case.

The PRESIDENT — As far as this witness is concerned you assume it.

Mr. MCGUIRE — Well, I can ask him in reference to that time.

The PRESIDENT — You ask him why the bank went into liquidation shortly after Mr. Ellis was there. It seems to me the proper method would be to ask why the bank went into liquidation at such a time.

Senator WOODIN — Wouldn't it be better still to inquire why the bank went into liquidation; the other evidence supplies the time when it went into liquidation.

Mr. MCGUIRE — I know very well to ask a witness a general question one may get nothing, but asking about a particular question you may get something.

The PRESIDENT — Counsel is entitled to every proper privilege, and very broad privilege upon cross-examination, but it seems to the Chair as assuming a fact not within the witness' knowledge, and as an improper way to put the question.

Mr. MCGUIRE — Well, I will obviate it.

Q. Then why did this bank go into liquidation after the latter part April, 1876 ? A. The immediate cause was the difficulty in the board of direction.

Q. That was the immediate cause ? A. Yes, sir.

Q. Any other cause ; the effort of Mr. Reid to examine this bank one of the causes within your knowledge ? A. No, sir.

Q. Can you state that it did not actuate the board of direction ? A. I don't think it did.

Q. I was not asking for what you thought ; have you any knowledge it did not actuate, from any conversations with them ? A. I never heard that mentioned in conversation ; I have had conversation with them in regard to it.

Q. Were you present at all the meetings of the board of directors ? A. Never at any of them.

Q. Then you don't know what transpired at their meetings ? A. No, sir ; except from reading the minutes.

Q. But the discussion or talk you know nothing about? A. No, sir; except what I have been told afterward.

By Senator WOODIN:

Q. I understood you to say that the immediate cause of this bank going into liquidation was a difficulty among the trustees? A. Yes, sir.

Q. Will you state what that difficulty was? A. There was a very bitter feeling between two members of the board and the president, in regard to some transaction in regard to stock (stock of the bank), which caused an appointment of a receiver.

Q. Well, at the time of this difficulty (I don't know that this is a proper question, and counsel upon either side can object), was or was not the bank or institution hopelessly insolvent? A. From the books I should say that it was hopelessly insolvent.

Q. Then was the difficulty among the trustees the immediate cause of its going into liquidation, or was it because it was hopelessly insolvent? A. Well, I will change that answer; I don't mean hopelessly insolvent; I will say that I consider that the difficulty in the board of direction was the immediate cause, but there was a project on foot whereby there would be funds put into the bank, and it would be continued.

By Senator COLE:

Q. What was the project? A. The project was to sell the charter.

By Senator WOODIN:

Q. Was that project originated by the board of trustees? A. I believe it did.

By Senator SCHOONMAKER:

Q. How long was that project in contemplation? A. I can't say how long.

Q. How long did you hear of it? A. Several months, I should think.

Q. Give the number of months? A. I am unable to do so; I should think five or six months.

Q. Was that project in contemplation before Mr. Tracy gave his opinion? A. I think it was.

Q. Had Mr. Tracy's opinion any reference to that project? A. I can't say as to that.

Q. What do you know about that opinion of Mr. Tracy's? A. I know it was procured from Mr. Tracy, that's all.

Q. Did you hear any discussion among the trustees in regard to that opinion? A. No, sir.

Q. Did you have any conversation with any of them upon the subject? A. I don't recollect that I had.

Q. I wish you would be a little more explicit about the certificates of deposit, of which you have spoken; do you mean to be understood as saying that the certificates of deposit were given when there were no deposits in fact? A. No, sir; I didn't intend to be understood that way.

Q. What was the fact about it? A. All the certificates of deposit that were given, that I know of, were entered upon the books; I understand the gentleman to ask me if others could have been given without my knowledge.

Q. Do you know whether or not any others were given, when in fact there were no deposits corresponding with the certificates? A. No, sir; I do not know of any.

Q. Have you information in regard to it? A. I have understood there were, but know nothing about it.

Q. Who did you understand it from? A. I can't say who it was now.

Mr. McGUIRE — I submit, Mr. President, with all respect, there has been so much said in the newspapers about this thing that the inquiries are too general altogether — whether anybody in the street has communicated any information to the witness. The question allows the witness, if he has heard it yesterday, in Saratoga, to say that he has obtained information.

Senator SCHOONMAKER — My inquiry was, whether any officer of the bank informed this witness.

Q. What is the fact in regard to that? A. No officer of the bank ever told me so.

Q. Well, did you ever hear any officer of the bank tell any one else? A. I can't say I have heard one of the officers.

Q. Any employee of the bank?

Mr. McGUIRE — To that I must object; if the porter of the bank makes a statement it should not bind the bank, or any one else.

Senator SCHOONMAKER — Very well, then.

The PRESIDENT — The Senator is not disposed to press the question.

Senator SCHOONMAKER — No, only this witness evidently has knowledge that he is unwilling to communicate, and I desire to find out what he knows; I want to know if any book-keeper, or officer or trustee of that bank, has given this witness any such information?

The WITNESS — No, I have never been told.

Q. Have you seen any such certificate? A. No, sir; I never saw any.

Q. What was the character of the transaction with the Continental Insurance Company? A. There was an agreement given —

Q. I don't care about the agreement; what was the character of the transaction? A. There were securities taken into the Continental from time to time, and moneys deposited in the bank.

Q. That was all? A. There was another transaction to a large amount; I don't think there were any moneys passed from one party to the other, but it seemed to be a loan from one to the other.

Q. "It seemed to be?" A. Yes, sir.

Q. Was there in fact? A. I have always understood that it was simply to make the figures of the statement larger; that's the way I understood the second transaction.

Q. When was that? A. I think it was March or April, 1876.

By Senator PRINCE:

Q. How much was the charter expected to bring? A. About \$150,000.

Q. Its large value came from the extraordinary privileges that it gave, I suppose? A. Yes, sir.

Q. This institution, while nominally called a "bank," was really and virtually an extensive pawn-broking establishment? A. Yes, sir; that is what I always considered it.

By Senator COLE:

Q. Can you tell us what was the cause of the procurement of the opinion of Mr. Tracy—what was the moving power? A. I don't know what it was.

Q. Do you remember that about the time that opinion was procured that either Mr. Ellis or Mr. Reid were there in the examination or asking to examine into the affairs of that bank? A. I think that about that time Mr. Reid was there.

Q. For any considerable time before that, do you know the fact whether or not there was any desire on the part of that institution to get the opinion of a lawyer whether this bank could be examined? A. I think about a year before that there was an opinion given by the counsel for the bank; the question was brought up by one of the depositors; I think that our attorney advised whether the bank was subject to examination or not.

Q. Wasn't that opinion based upon the fact that an examination was about to be made or expected to be made, and you wanted to put it off? A. I don't understand it that way; one of the depositors called for a statement, and I understand that it was on account of that request.

Q. But what had a statement to a depositor to do with this question whether the bank was subject to the examination by a receiver;

how could that involve the question? A. My recollection is that this depositor wrote to the bank; I can't say positive, but I think a depositor wrote to the Bank Department to find out what our condition was.

Q. Precisely, and that very reason brought up the question whether he had any power to investigate the bank, didn't it; so that was the moving cause? A. It might have been.

Q. Do you know any thing about it? A. I didn't know any thing about our being called on for examination at that time.

Q. What did you mean then by saying that a depositor had been inquiring of the Bank Department — A. (Interrupting.) And he got no satisfaction from them and then he wrote to us.

Q. What did he write to you? A. Asking if the bank had ever been examined and to have an examination made; he was a large depositor.

Q. How should that involve the question whether the examiner could examine or not; was there not something behind that; was there not somebody seeking the examination of that bank, and were not your people on the other hand trying to get rid of an examination of that bank by a receiver? A. Possibly they were; I had no knowledge of it.

By Mr. TRACY :

Q. [Showing same.] Is that the original of Mr. Wm. Tracy? A. Yes, sir, it is; that is his signature to it.

Q. I will read a few lines in order to ask you a question; "I am requested to advise the Loaners' Bank of the city of New York whether it was subject to the provisions of chapter 324 of the Laws of 1874, entitled 'An act relative to moneyed corporations other than banks, institutions for savings and insurance companies;' " do you know any thing about Mr. Wm. Tracy being requested to advise the bank? A. I was told by the president that he had requested Mr. Tracy to give an opinion.

Q. On that subject? A. Yes, sir.

Q. Did you see this opinion when it came in? A. Yes, sir.

Mr. TRACY — For the convenience of the gentleman I shall read a few lines at the end of it. The concluding paragraph is this "I am, therefore, of the opinion that chapter 324 of the Laws of 1874 has no reference to the Loaners' Bank, and that it (the bank) is simply within the same provisions as to reports as are other banks, so far as applicable to the objects of the institution, and as provided in its charter." Dated April thirteenth. This need not be put in in full, as it is already on the record.

By Senator BIXBY :

Q. Were there checks and certificates of deposit received on deposit in other banks that you know of ? A. In some few they were.

Q. They were not generally received ? A. No, sir.

Q. Did the Abingdon Square Bank ever deposit any money in the Loaners' Bank ? A. I have a very faint recollection of the transaction with the Abingdon Square; I remember that the books showed a balance several times; I have no recollection of their depositing money or drawing it out; I only remember there was a balance.

Q. You don't know what it was based upon ? A. No, sir; I never knew any thing about that.

By Senator WAGSTAFF :

Q. What bank did it clear through ? A. German American; our checks were not taken by many of the city bankers until they had been certified by the German American.

By Senator BIXBY :

Q. Who was the attorney of the Loaners' Bank ? A. Sewell and Pierce.

By Mr. TRACY :

Q. Who was the attorney in the proceedings to put them into the receiver's hands ? A. Sewell and Pierce, I think were the attorneys

Q. Was the opinion which was the firm opinion in respect to their examination by Sewell and Pierce ? A. I think by Robert Sewell.

Q. Who was the complainant in the proceedings for a receiver ? A. Henry Prentice.

Q. Was he a depositor ? A. He held a certificate of deposit for \$12,000.

Edgar A. Werner recalled on behalf the State.

By Mr. TRACY :

Q. You are from the Bank Department ? A. Yes, sir.

Q. What is your particular position there ? A. I don't know that I have any I consider myself a general clerk.

Q. Have you there before you a book called "The Commission Book ?" A. A record of the commissions or examinations.

Q. What does it contain, generally ? A. The date of issuing of the commission, and the time when it is returned to the department.

Q. What kind of a commission ? A. All institutions under the bank department.

Q. Commissions to examine? A. Yes, sir.

Q. Do you keep this book yourself? I generally have kept it; there are some entries that are not mine.

Q. Find the date of the commission of Mr. Reid to examine the Loaners' Bank? A. The commission was issued March 31, 1876.

Q. Who signed it? A. The record does not show.

Q. Do you recollect who signed it? I am not positive, but my impression is, Mr. Lamb did.

Q. Who drew up the paper? A. I suppose I did.

Q. When was it returned? A. May 12, 1876.

Q. What is the entry about its return? A. "Refused to be examined; commission returned."

Q. It says that under that date? A. Yes, sir.

Q. Did you see it when it came back? A. I don't recollect.

Q. Who made the entry there? A. I did.

Q. If you didn't see it from whom did you get the information of its return to make an entry? A. I presume I saw it, although I don't recollect having seen it.

Q. What was done with it after it was returned? A. It was marked, "filed" and put away with the other examinations.

Q. Did you see it afterwards? A. I can't say positively.

Q. What was the number of this commission? A. Twenty-five.

Q. You say you put it with the other commissions? A. Yes, sir.

Q. Did you see it afterwards? A. No, sir; I don't recollect; I don't remember having seen it; I am not positive about it.

Q. Did you see papers connected with this bank afterward collected together? A. I collected the papers.

Q. When? A. I can't give the date; it was since the charges were made against the superintendent.

Q. It was while the Senate commission were in session or about that time? A. I can't testify to that.

Q. It was after the charges any way? A. Yes, sir.

Q. You got all the papers together about that time? A. Yes, sir; I got that together with the others.

Q. And the commission was put in. A. It is my impression that it was found, but I do not remember that particular paper.

Q. If it hadn't been found at that time, wouldn't you remember it now? A. No, sir; I would not.

Q. You have no impression whether it was found at that time or not? A. No, sir; I was given a list of banks to search for papers for those banks, and searched for all the papers, and all I found I gave to Mr. Roberts.

Q. Is that parcel in the bank together — was it afterwards — the parcel collected in regard to the Loaners' Bank? A. The collection

of the Loaners' Bank would be a very small bundle ; a few letters and the commission ; the other banks made considerable large packages.

Q. You saw this package after the inquiry before the Senate committee, didn't you ? A. I can't say as to that ; I don't remember as having seen it.

Q. Have you looked for it in the department any where ? A. No, sir ; I have not had occasion.

Q. Where should it be in the department ? A. In the vault.

Q. And in what connection with other papers in the vault ? A. They are kept in separate boxes ; the examinations of banks and of different institutions, and they should be among the miscellaneous records.

Q. Is there such a box as " miscellaneous records ? " A. Yes, sir ; I have looked in that for it, and have not found it.

Q. When did you look ? A. Since the adjournment of the Senate.

Q. And since you were subpoenaed ? A. Yes, sir.

Q. And it is not there in that box ? A. I couldn't find it.

Q. Is there any other proper place for it in the office ? A. No, sir ; I don't think there is.

Q. So far as you know, can you say whether it is or is not in the office of the department ? A. I couldn't say whether it was there or not.

Cross-examination :

By Mr. McGUIRE :

Q. Have there been other persons around the Bank Department, rummaging papers ? A. Yes, sir.

Q. Connected with this case, on the part of the people ? A. I do not understand your question.

Q. Were there persons who were in there rummaging around the Bank Department for papers ; were they connected with this case, on the part of the people ; anybody looking on behalf of the people, I mean ? A. One of the counsel for the people has been here.

Q. How many times has he been there ? A. I have seen him there twice.

Q. How long did he stay each time ? A. I could not say ; I met him there the first time, and I think the second time, if I recollect right.

Q. These commissions you have been interrogated about at such great length are printed blanks ? A. Yes, sir.

Q. That is, you have printed forms ? A. Yes, sir.

Q. And all you have got to do is simply to put in the date and the name of the bank ? A. Yes, sir.

Q. And the examiner ? A.^c Yes, sir.

Q. When you issue that commission, you make a record of it in the record-book of the department? A. Yes, sir.

Q. So that if the commission is lost, the public interest in no wise suffers, because you have a record of it? A. Yes, sir.

Q. So there is no real significance in the fact that you cannot find the original paper, as long as you have the record?

Mr. TRACY — That is a matter of opinion.

Mr. McGUIRE — I want the fact.

Q. If you cannot find the original you can turn to your record and get the same paper? A. Yes; can duplicate it, except as to the signature of the officer who signs it.

Mr. TRACY — So far as the commission is concerned he can duplicate, but now ask him about the return.

Mr. McGUIRE — Return of what.

Mr. TRACY — Return was made by the person commissioned.

Q. When the examiner examines, or when he, for any cause, fails to make an examination, he communicates the fact to the department, by letter, does he not? A. Ordinarily.

Q. And the substance of that letter you transcribe upon your record the same as you did in this case? A. I suppose that is the case.

Q. Have you looked to see whether Mr. Reid sent a letter upon the return of this commission? A. I searched for all the papers connected with the bank; I did not open them.

Q. The fact was communicated to the department in some way? A. Yes, sir.

Q. Upon which you made that entry that the bank refused to be examined? A. I was told that the bank refused to be examined or I should not have made the entry.

Q. There are large bundles of papers, and a very large number of bundles of papers around the Bank Department, are there not? A. There are a great number of papers there.

Q. And papers occasionally get mislaid? A. It is no uncommon occurrence.

Q. Were these papers in relation to the Loaners' Bank taken before a Senate committee? A. I could not say as to that.

Q. Were you requested to look for them and take them before a Senate committee? A. I was not requested to take them before a Senate committee.

Mr. McGUIRE — Mr. Lamb stated the other day that he had lost some papers before that committee?

Isaac Smith, being duly recalled on behalf of the people, testified as follows:

Examined by Mr. TRACY :

Q. There is an entry here which has been shown which I will read : "Name of institution, Loaners' Bank; location, New York city; name of examiner, Geo. W. Reid; date of commission, March 31, 1876; examination when made [in red ink], refused to be examined, commission returned; report of examiners, when received, May 12, 1876, No. 25;" did you see that commission after its return? A. I do not know that I did just after its return.

Q. Did you see it at any time afterward? A. Yes, sir, I think so.

Q. When and where? A. It must have been a number of months afterward; I think I saw it in among some papers in the vault, in a box.

Q. At what period was that? A. I cannot tell you exactly.

Q. Was it before or after, the investigation before the Senate committee? A. I am inclined to think it was before.

Q. Have you seen anything of it since? A. No, sir.

Q. Did you read any return written upon the commission? A. No, sir.

Cross-examination :

By Mr. McGUIRE :

Q. Does the examiner make his return upon the commission? A. I do not know that he does.

Q. You do not know of a single instance in the department where the examiners made a return upon the commission do you? A. I do not remember any.

Re-direct examination :

By Mr. TRACY :

Q. In all the commissions produced here, was there not annexed to the commission the return of the examiner in writing? A. In this case?

Q. In this trial, all through? A. In one or two cases I believe there was no commission annexed; all that were returned to our department had commissions I believe annexed to the examination.

Q. Wherever there was an examination returned it was annexed to the return as a part of the commission, was it not? A. Yes, sir.

Re-cross examination :

By Mr. McGUIRE :

Q. Is this the only instance that has fell under your observation,

since in the Bank Department, where an institution has declined to be examined? A. That is all that I remember.

Q. There being no examination made, of course there was none to be annexed to the commission? A. That is correct.

Henry L. Lamb, recalled on behalf of the people, testified as follows:

Examined by Mr. TRACY :

Q. Will you inform the Senate when you last saw this Loaners' Bank commission, and where?

Mr. MCGUIRE — Mr. President, I would inquire what is the purpose of this lengthy examination about the loss of that commission? Unless there is some purpose, I must object to it as totally irrelevant. I did not suppose witness after witness was going to be called on this point.

Mr. TRACY — I want to prove the loss of the commission in order to give evidence of what the return upon it, or attached to it, was. If Mr. Lamb can tell me where and when he last saw it, it will facilitate that thing.

Mr. MCGUIRE — Mr. President, I do not object to proving any return there was upon that commission, if there was any, but I do not see what the purpose is of taking up so much time.

The PRESIDENT — The counsel proposes to prove the loss, and in order to do that, he desires to call the employees of the department, and he attaches some suspicious circumstances to the fact of the paper being lost.

Mr. TRACY — Of course I do. It is a very queer circumstance that calls for an explanation. I desire to see what the examiner wrote upon it.

The PRESIDENT — Then it is material for the counsel to prove the loss of a paper, the contents of which he proposes to prove by parol.

Mr. MCGUIRE — There has been no such objection. I do not want to be put in the ridiculous attitude of objecting to the parol contents of a paper that is lost. That is too elementary.

Q. Answer the question; tell the Senate, if you can, when and where you last saw that commission? A. I saw it in April, 1877, in a box of examiners' reports respecting the Safe Deposit Company.

Q. Have you looked there for it since? A. I have looked for it when we were collecting the papers last week to bring to this trial.

Q. Did you find it there? A. No, sir, I did not.

Q. From your recollection, was there any thing written upon the commission, or annexed to it, indicating that the examiner was refused

permission to make an examination, and, if so, what? A. I do not recollect that there was any record upon it.

Q. Or annexed to it? A. Or annexed to it.

By Senator GERARD:

Q. Who had the special control of these reports? A. Mr. Werner, the clerk in the office, filed these papers, and they were deposited in the vault, accessible to anybody in the office.

Q. But to none others? A. Not to my knowledge.

Q. How many clerks or deputies were there there? A. There are three clerks besides myself.

Cross-examination:

By Mr. CHAPMAN:

Q. Do you recollect whether, when this matter was under investigation by the Senate committee, this paper was taken before the committee or not? A. I do not know that it was.

Q. I called for all the papers relating to each one of these banks or under discussion, did I not? A. Yes, sir.

Q. I called upon you to have yourself and your clerks look up these papers? A. Yes, sir.

Q. And you did so? A. Yes, sir.

Mr. CHAPMAN — I do not remember whether the paper was there not.

Q. Papers were taken over there to that examination and were badly mixed up there, were they not? A. Yes, sir.

Q. Now, in regard to this loss of this commission; as I understand from the other witnesses, and I will ask it from you as a deputy, these commissions are merely printed blanks, to be filled up either by the deputy or by the superintendent, with the date and the name of the examiner, and the name of the bank to be examined, and they are all alike, are they not, with those exceptions? A. The most of them are alike, and on printed blanks, as you state.

Q. Well, now, in regard to this paper; as I understand you, when you saw it in April last, there was no memorandum attached to it that you recollect of, and no writing upon it that you recollect? No, sir.

Q. Now, this paper may have been brought back to the department and delivered by the examiner himself, may it not? A. Yes, sir.

Q. It may have been delivered by the examiner to Mr. Ellis in New York, may it not? A. That might be the case.

Q. Now is there the slightest significance in the loss of that paper; can it not be reproduced in five minutes — a copy made of it? A. Substantially.

Q. Every fact appears upon the record here sufficiently to enable the making up of another paper just like it ? A. Yes, sir ; I do not know of any fact which could not be proved, although that instrument is gone.

Q. So, if the instrument itself was absolutely destroyed by calling persons in the department every fact contained in the paper could be proved ? A. I think so.

Q. And not only by the clerks in the department, but also by the records in the department ? A. Yes, sir.

Re-direct examination :

By Mr. TRACY :

Q. In response to a Senator you said there were a certain number of clerks in the department, four, including yourself ? A. Yes, sir.

Q. Those four person were yourself, Mr. Smith and Mr. Werner ? A. Yes, sir.

Q. Who was the fourth ? A. Chas. Ellis.

Q. Young Mr. Ellis ? A. Yes, sir.

Q. He is of the family of this respondent ? A. Yes, sir.

Q. What was his particular business in the office, bearing upon the case of this office ? A. He would in ordinary business, have nothing to do with it ; he was engaged with the other clerks in collecting all these papers during the progress of the other trial.

Q. Was it, or was it not, a part of his business to put away a return, and make an entry when it came in ? A. Not of this class of papers ; he files and puts away the correspondence that comes into the office ; he takes charge of that, but the reports of the examiner, and of the banks, and of similar papers, go into the hands of Mr. Smith or Mr. Werner.

Q. And not of the younger Mr. Ellis ? A. No, sir.

By Senator GERARD :

Q. You say that the contents of this paper might be proved by other testimony connected with it ? A. Yes, sir.

Q. Could the indorsement be proved by any thing in the department, by any other paper or entry ? A. Whose indorsement do you mean ?

Q. It has been stated there was an indorsement upon that paper ; you say you do not remember whether there was or not ; if there was an indorsement on that paper when returned to the office, would that indorsement appear by any entry upon any book or paper in the department ? A. Yes, sir ; it appears in the book that Mr. Werner presented ; the natural indorsement upon the paper when it was returned

to our office would be returned on the day named; and our commission-book shows it.

Q. Would the indorsement appear upon that book naturally? A. If it was made in our office; if Mr. Reid had made any indorsement upon it, that would not appear by any record made in the department.

Q. That would not? A. No, sir.

Q. Was there any other paper lost that was used on the examination? A. Before?

Q. Yes, sir? A. There were only one or two letters lost then; this matter of the indorsement on the paper, and the reason why I think there was none made, I can explain in one moment.

Mr. CHAPMAN — That is just what I was going to ask you.

The Witness — You will recollect yesterday I presented a letter from Mr. Reid, dated April sixth, saying he had been to the Loaners' Bank, and the president refused to allow him to make the examination; there was his return.

By My CHAPMAN :

Q. Now, let me ask you when you saw this in April last; was it after the charges had been made by the Governor? A. I cannot tell.

Q. If there had been any indorsement upon the commission, or any suspicious circumstances, would it not have been apt to have attracted your attention, and would not you have remembered it from April thirteenth to this time? A. Yes, sir; I think I should.

Mr. TRACY — We will now proceed to give the evidence we wish to add in the case of the German Savings Bank of Morrisania.

Mr. McGUIRE — Before proceeding upon that branch, I desire to move to strike out of the record all of the evidence in relation to this commission. The testimony, as I understood, was admitted upon the ground that they sought to prove a paper lost, and to then give, under an extremely elementary rule, evidence of the contents of a lost paper. Now, the counsel for the State has not attempted to give any parol evidence of the contents of that commission; counsel has not attempted to give any evidence of any indorsement upon that commission, but has got the evidence before the Senate upon the assumption and pretense that that was its purpose. The Senate, Mr. President, sees there was no such purpose whatever. The purpose is to show the loss of an immaterial paper, and then to create a suspicion that Mr. Ellis himself, or his son, has abstracted, laid away, or destroyed that paper, and then to try Mr. Ellis before this Senate, or before the public through the newspapers, upon the suspicion of destroying that paper. So long as there has been no evidence offered with the view, and for the purpose for which it was admitted, I move to strike it out

Mr. TRACY — Mr. President, the learned gentleman moves to strike out the evidence of the loss of the paper, on the ground that its contents by parol have not been proven. I will answer that directly and professionally. We have proven its contents affirmatively and negatively. We have proven that it was in the form (samples of which are before the Senate) of a blank. We have proven how it was filled up, by whom, with what words, and how it was signed, and by whom and how it was entered in the book, making this as plain before the Senate as any thing can be at this time. It is unnecessary to ask Mr. Lamb to write out a new one on a fresh blank, because the Senate have samples before it of these blanks, and we have all the material for filling it up here from the gentleman (Mr. Werner) who entered them in the book. The remaining fact which its absence entitled us to inquire about, was contained in or annexed to the document. We have proven by the proper person, now, that he has found nothing of that kind annexed to it, and on cross-examination he has given the reason for his being quite clear about that; that he supposes nothing would be annexed, inasmuch as a letter followed about that time from the examiner. Therefore, I claim that we have proven its contents. Let me say one thing farther. All this matter about proving the loss of an instrument, and then proving its contents, is divided in jurisprudence, and under the laws of evidence into two subjects. The question about the loss of a paper does not go to the jury as one of the final facts, but merely goes to the judge that he may see whether he will allow the parol evidence of its contents to stand before the jury. That is one of the discretionary attributes of a court, and the judge determines whether there is proper proof of the loss of a paper to admit the other evidence, and when the other evidence is, in the opinion of the court, admissible, it may be admitted, and then the jury pass upon the weight of it afterwards. And resolving this high tribunal into the double position of judge and jury, as far as that is concerned, like the chancellor sitting at court the first question is the loss of the paper. We have got before the court that it is lost, so there is no dispute about it now. Then we have got in the contents, and the contents cannot be stricken out unless the rules of evidence should be very different from what my education in regard to them has led me to suppose them to be.

The learned gentleman talks of an attempt to go to the newspapers. Mr. President, I am connected with no newspaper, nor are my associates, either one; I have been so constantly engaged here that, although I ordered all the papers into our rooms here, I have been unable for nearly a week to read one of them until this morning, when I hastily sketched *The Argus*. I disavow any such attempt as that. We have no connection whatever with any newspapers. We are not

trying this cause in the newspapers. I would not stand here, a counsel for the State, and be a penny-a-liner to the newspapers. I would not be fit to stand here as counsel representing the State of New York were I capable of such a thing as that. It is not the newspapers that are to retain or expel this man from his official position, but the court and Senate of this State. To it I give my words and best efforts according to the mandate of the Governor, and we present to the Senate each and every fact susceptible of proper proof in regard to this case. As to the suspicion of loss, that is a very inferior and insignificant matter. The absence of a paper is always a suspicious circumstance. We have a right to have the fact appear, and Mr. Ellis is admissible as a witness to say that there is no ground for any suspicion whatever. There is no insinuation that his son has spirited away this paper. I have taken pains to prove by Mr. Lamb that it did not belong to the gentleman's department at all. But it is a rule of evidence and a rule of law that a paper in the custody of a party, not being produced, does involve him in some little suspicion about it. It does not amount to much one way or the other. Mr. Ellis can clear it away by a breath if he can say, "I don't know any thing about it." We are not here with any right to waive putting in evidence pertinent to this case. Some of our evidence which we are introducing here, may be regarded as contradicting the evidence given by Mr. Ellis in New York. If the Senate are to believe all that Mr. Ellis has sworn to here or may swear to here, that is a proposition depending on the credit they will give him, and things that pertain to his credit as a witness, not only the position he is in, as defending for himself and office, and defending himself before the public (I will not say before the newspapers, because I do not try this cause upon this principal at all), all that thing is open to him as completely as it is to us. I should think the counsel on the other side had been unwisely derelict in duty if they could show that any witness produced here was under suspicion as to the loss of this paper and failed to show it. I hope therefore, it will not be stricken out.

The PRESIDENT — Counsel for the defense makes a motion to strike out all the testimony relating to the loss of the commission, as the Chair understands it, upon the ground that no evidence has been given of the contents of the commission. The answer to that is that a copy of the commission has been produced here which could not have been legally offered in evidence unless the loss of the original paper had been proven. If the counsel for the respondent desires it the Chair will submit the question to the Senate.

Mr. McGUIRE — I don't desire it to be submitted to the Senate.

The PRESIDENT — Go on, Mr. Tracy.

Mr. TRACY — I will proceed with the other case, then.

Henry L. Lamb recalled on behalf of the State :

Mr. TRACY :

Q. Please produce to the department the report of the German Savings Bank of Morrisania, of January 1, 1875.

Mr. TRACY — This report is on one of the printed blanks that the Senate have often seen here, and I put it in evidence as follows :

SCHEDULE A.
BONDS AND MORTGAGES.

No.	Co. where located.	In what city, village or town.	Principal unpaid.	Estim'd value of mortgaged premises.	Rate of interest.
					Per Cent.
1	New York*...	New York ...	\$2,000	\$4,000	7
2	New York....	New York....	1,600	3,200	7
3	New York....	New York....	350	3,000	7
4	New York....	New York....	2,000	4,000	7
5	New York....	New York....	3,000	6,000	7
6	New York....	New York....	4,500	12,000	7
7	New York....	New York....	800	1,600	7
8	New York....	New York....	2,000	5,000	7
9	New York....	New York....	3,000	10,000	7
10	New York....	New York....	3,500	7,000	7
11	New York....	New York....	3,000	6,800	7
12	New York....	New York....	1,000	8,000	7
13	New York....	New York....	3,000	6,000	7
14	New York....	New York....	1,700	4,000	7
15	New York....	New York....	2,800	7,000	7
16	New York....	New York....	3,000	7,200	7
17	New York....	New York....	3,500	7,000	7
18	New York....	New York....	1,800	5,000	7
19	New York....	New York....	7,000	14,000	7
20	New York....	New York....	4,000	21,000	7
21	New York....	New York....	2,500	6,000	7
22	New York....	New York....	2,200	4,800	7
23	New York....	New York....	1,500	3,000	7
24	New York....	New York....	3,000	12,000	7
25	New York....	New York....	2,000	4,500	7
26	New York....	New York....	8,000	9,500	7
27	New York....	New York....	1,000	3,150	7
28	New York....	New York....	2,500	7,600	7
29	New York....	New York....	2,000	7,500	7
30	New York....	New York....	3,000	7,800	7
31	New York....	New York....	1,800	5,200	7
32	New York....	New York....	1,000	2,900	7
33	New York....	New York....	2,500	5,700	7
34	New York....	New York....	2,000	4,100	7
35	New York....	New York....	2,500	6,000	7
36	New York....	New York....	3,500	9,800	7
37	New York....	New York....	1,600	3,400	7
38	New York....	New York....	2,000	4,000	7
39	New York....	New York....	2,500	7,000	7
40	New York....	New York....	8,000	16,000	7
41	New York....	New York....	2,000	5,500	7
42	New York. ..	New York....	2,000	5,000	7

Formerly Westchester.

SCHEDULE A —(Continued).

No.	County where located.	In what city, village or town.	Principal unpaid.	Estim'd value of mortgaged premises.	Rate of interest.
43	New York*...	New York....	\$3,500	\$8,000	7
44	New York....	New York....	1,500	3,750	7
45	New York....	New York....	3,000	7,300	7
46	New York....	New York. .	2,500	6,100	7
47	New York....	New York....	6,000	15,000	7
48	New York....	New York....	2,760	5,800	7
49	New York....	New York....	2,500	6,000	7
50	New York....	New York....	1,000	2,800	7
51	New York....	New York....	2,000	5,500	7
52	New York....	New York....	600	2,300	7
53	New York....	New York....	3,000	12,000	7
54	New York....	New York....	4,200	8,400	7
55	New York....	New York....	2,800	7,000	7
56	New York....	New York....	3,000	6,500	7
57	New York....	New York....	7,500	16,000	7
58	New York....	New York....	2,500	5,500	7
59	New York....	New York....	1,500	4,800	7
60	New York....	New York....	7,000	18,000	7
61	New York....	New York....	2,500	5,500	7
63	New York....	New York....	3,000	9,000	7
64	New York....	New York....	2,000	4,200	7
65	New York....	New York....	2,500	6,100	7
66	New York....	New York....	2,500	7,000	7
67	New York....	New York....	2,300	6,000	7
68	New York....	New York....	2,000	5,000	7
69	New York....	New York....	3,000	7,000	7
70	New York....	New York....	4,000	10,500	7
71	New York....	New York....	2,500	5,700	7
72	New York....	New York....	3,300	7,000	7
73	New York....	New York....	3,500	8,500	7
74	New York....	New York....	600	1,200	7
75	New York....	New York....	1,000	2,900	7
76	New York....	New York....	700	7,000	7
77	New York....	New York....	3,500	7,000	7
78	New York....	New York....	1,800	4,500	7
79	New York....	New York....	5,000	12,500	7
80	New York....	New York....	3,500	7,500	7
81	New York....	New York....	1,000	5,500	7
82	New York....	New York....	4,000	10,000	7
83	New York....	New York....	2,000	4,700	7
84	New York....	New York....	2,200	6,000	7
85	New York....	New York....	1,000	2,000	7
86	New York....	New York....	2,000	12,000	7
87	New York....	New York....	3,000	7,000	7
88	New York....	New York....	2,300	6,500	7

* Formerly Westchester.

SCHEDULE A — (Continued).

No.	County where located.	In what city, village or town.	Principal unpaid.	Estim'd value of mortgaged premises.	Rate of interest.
					Per cent.
89	New York*...	New York...	\$3,500	\$9,000	7
90	New York....	New York....	2,500	5,000	7
91	New York....	New York....	1,000	2,200	7
92	New York....	New York....	1,500	6,000	7
93	New York....	New York....	2,000	3,400	7
94	New York....	New York....	1,000	7,000	7
95	New York....	New York....	2,000	4,500	7
96	New York....	New York....	3,500	8,000	7
97	New York....	New York....	2,000	8,000	7
98	New York....	New York....	3,000	12,000	7
99	New York....	New York....	3,500	9,500	7
100	New York....	New York....	900	4,200	7
101	New York....	New York....	4,000	11,000	7
102	New York....	New York....	2,000	8,500	7
103	New York....	New York....	5,000	15,000	7
104	New York....	New York....	2,800	8,000	7
105	New York....	New York....	2,500	6,750	7
106	New York....	New York....	800	2,000	7
107	New York....	New York....	3,500	7,300	7
108	New York....	New York....	2,500	7,000	7
109	New York....	New York....	1,500	4,000	7
110	New York....	New York....	400	800	7
111	New York....	New York....	6,000	12,500	7
112	New York....	New York....	3,000	8,000	7
113	New York....	New York....	3,000	10,000	7
114	New York....	New York....	600	3,450	7
			\$295,150	\$783,800	

* Formerly Westchester.

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates; 2. New York State stocks; 3. Stocks of other States; 4. Stock or bonds of cities in this State; 5. Stocks or bonds of counties; 6. Stocks or bonds of towns; 7. Stocks or bonds of villages; 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
U. S. 1867 5-20 coupon bonds.....	6 gold.	\$22,920 00	\$20,000 00	\$23,650 00
Buffalo city bonds.....	7	\$25,125 00	\$25,000 00	\$25,562 50
Buffalo city bonds.....	7	15,037 50	15,000 00	\$15,337 50
Town of Morrisania, Town Hall bonds.....	7	\$40,162 50	\$40,000 00	\$40,900 00
Town of Morrisania, Southern Boulevard bonds.....	7	\$5,000 00	\$5,000 00	\$5,000 00
West Farms, Fordham and Pelham avenue bonds.....	7	\$1,439 67	\$1,500 00	\$1,500 00
Town of Rye bonds.....	7	\$1,500 00	\$1,500 00	\$1,500 00
Town of Eastchester bonds.....	7	\$20,134 45	\$20,000 00	\$20,134 45
Town of Southfield bonds.....	7	\$11 612 50	\$12 000 00	\$11,612 50
Town of Southfield bonds.....	7	\$24,220 55	\$25,000 00	\$24,220 55
Town of Southfield bonds.....	7	14,250 00	15 000 00	14,250 00
Town of Southfield bonds.....	7	900 00	\$1 000 00	900 00
		\$39,370 55	\$41,000 00	\$39,370 55

Mamaroneck town bonds.....	7	\$975 00	\$1,000 00	\$1,000 00
Town of Morrisania, Central avenue bonds.....	7	\$1,870 00	\$2,000 00	\$2,000 00
Pelham avenue dock bonds.....	7	\$5,790 00	\$6,000 00	\$6,000 00

SCHEDULE D.

STOCKS OF PRIVATE CORPORATIONS UPON WHICH MONEY HAS BEEN LOANED.

Name of stock.	Par Value.	Amount loaned. thereon.	At what rate of interest.
New Jersey Midland Railroad consolidated 7 per cent gold mortgage bonds.....	\$32,000	.....	.....
New York and Oswego Midland first Mortgage 7 per cent bonds (Western Extension).....	68,000	.....	.....
New York and Oswego Midland Railroad equipment convertible and sinking fund.....	47,500	\$90,500	7 per ct.

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	At what rate of interest.
Germania Bank....	185 Bowery, city of N. Y.....	\$30,478 17	4 per ct.

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS.

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....	\$730 00
New York State stocks.....
Stocks of other States.....
Bonds of counties, cities and towns of this State.....
Other stocks and bonds.....	1,162 83
Real estate.....	2,833 27
Totals.....	\$4,726 10
Difference.....	*\$	\$4,726 10

* If cost exceeds market value the difference should be entered under the head, "Other Liabilities," in the report.

Report of the German Savings Bank, of the town of Morrisania, N. Y., an incorporated institution for savings, of its condition on the 1st day of January, 1875, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed	\$295,150 00
2. Stock investments, as per Schedule B, hereto annexed	150,774 67
3. Amount loaned on public stocks, as per Schedule C, hereto annexed .....	.
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed...	90,500 00
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.	
6. Real estate, cost \$12,166.73 ; market value, \$15,000 ; standing on books at \$12,910.48	12,910 48
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	30,478 17
8. Cash on hand not deposited in bank.....	16,952 48
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed:	
Fixtures of the bank, safes, etc.....	3,358 33
Accrued interest January 1, 1875.....	25,902 54
	<hr/>
	\$626,026 67
	<hr/>

Liabilities.

1. Amount due depositors.....	\$598,673 86
Principal.....	\$584,056 88
Interest credited for the 1st of Jan., 1875.....	14,616 98
3. Excess of assets over liabilities.....	27,352 81
	<hr/>
	\$626,026 67
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1875.....	2,911
2. Number of accounts opened during the year 1874..	512
3. Number of accounts closed during the year 1874 ..	476
4. Number of accounts opened since organization....	5,167
5. Amount deposited, not including interest credited during 1874.....	\$1,521,165 77
6. Amount deposited, including interest credited for the same period.....	1,549,647 99
7. Amount withdrawn during the year 1874.....	1,544,330 88
8. Amount of interest or profits received * during the year 1874.....	30,361 64
9. Amount of interest credited to depositors for the same period.....	28,482 22
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited: July 1, 1874, \$13,865.24; December 31, 1874, \$14,616.98.....	28,482 22
Credited at other periods during the year.....	None.
11. Rate per cent of dividends or interest to depositors during the past year, six per cent.	

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Jacob Held, president, and William Hoeland, secretary of the German Savings Bank of the town of Morrisania, an incorporated institution for savings, located and doing business at corner of One Hundred and Fifty-eighth street and Third avenue, in the city of New York, being duly and severally sworn, each for himself, saith, that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the first day of January, one thousand eight hundred and seventy-five, in respect to each and every of the items and particulars therein specified according to the best of his knowledge and belief.

JACOB HELD, *President.*

WILLIAM HOELAND, *Secretary.*

Severally subscribed and sworn by }
both deponents, the 23d day of }
January, 1875, before me.

[L. S.]

ERNEST HALL,

Notary Public, City and County of New York.

* If amount received is reported, strike out "or earned;" if amount earned is reported, strike out "received or."

Q. Will you produce the original examination of Mr. Reid—I think of April 24, 1875. [Witness produced same.]

Mr. TRACY—I would like to read the part in manuscript, and which is not in the printed book. First comes the blank commission and then the letter of Mr. Ellis and then the formal report and then the schedules, and that is in the book, I believe. I suppose that all that need be transcribed in the minutes is the letter of Mr. Ellis, and not to encumber it with the whole report I offer in evidence the following:

“Hon. D. C. Ellis, *Superintendent Bank Department*:

“SIR—The undersigned, appointed to examine into the condition working, etc., of the German Savings Bank of Morrisania, report:

“From the schedules annexed, it will be seen that there is a deficiency of more than \$77,000 in assets. Nearly three years ago a loan of \$105,000 was made by the former president to the Montclair Railroad Company of New Jersey, on various collaterals. At the last examination we called attention to this loan as not authorized by the charter, and directed that it should be called in. A part was paid, reducing the amount to \$90,500, when the company failed, and it now appears that the president had allowed the company to change the bonds held for those of much less value the trustees say without their knowledge. The president resigned last year, and a new set of officers were elected, who appear determined to get the bank out of difficulty and see that the depositors are saved from loss. The collaterals now held for this loan could probably be sold for about \$25,000, leaving a deficiency of \$52,000.

“There appears to have been some informality in the issue of the Southfield town bonds, Staten Island, which is now being tested in the courts.

“Respectfully submitted.

“GEO. W. REID.”

Examined April twenty-fourth and subsequent days.

Q. Do you know any thing about that deficit being made good?

A. The Superintendent made a requisition on the trustees to make it good.

Q. In what form did they make that requisition? A. He addressed a letter to the president, I think.

Q. When was that done? A. December 25, 1875.

Q. Have you a copy of it here? A. Yes, sir.

Q. That is not in the minutes? A. I think it is the other case; a copy was made for the other book.

Mr. TRACY—I will read in evidence as follows :

“STATE OF NEW YORK :

BANK DEPARTMENT,
ALBANY, *December 25, 1875.* }

“JACOB HELD, *President German Savings Bank, Morrisania :*

“DEAR SIR.—It appears by the examiner’s report that there is a deficiency of assets in your institution to which my attention has been officially called. It is the settled policy of the department to close up savings institutions which have not an amount of clear assets with which to meet their liabilities. Unless your deficiency is promptly made good I shall feel constrained to act in your case.

“Truly, yours, etc.,

“D. C. ELLIS,
Superintendent.”

Q. Was this sent off at its date (December 25, 1875)? A. The presumption is that it was; I can’t say it was.

Q. Was there any thing done between those dates in the department about this bank, to your knowledge? A. Nothing appears of record.

Q. Did Mr. Ellis see this examiner’s report of April, 1875? A. I can’t tell, positively, whether he did or not when it was received.

Q. Was the business of looking at such a report appropriate to any particular official in the office? A. The first act done when the report is received is to pass it to Mr. Werner for filing; it is then examined by Mr. Smith, the accountant in the office; if there is any thing that seems to require attention it is submitted to Mr. Ellis or to myself; I am speaking now about the general rule.

Q. Do you recollect any conversation between yourself and Mr. Ellis about this bank or about this report, after it came in? A. No, sir; I do not.

Q. Will you now produce the report that followed the week afterwards (report of January 1, 1876)? A. Yes, sir [producing the same].

Mr. TRACY—I read as follows :

SCHEDULE B — STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stocks or bonds of villages. 8. Any other stocks or bonds.

NAME O	Rate of interest.	Par value.	Estimated market value.	Date of last payment of interest.
Morrisania Town Hall bonds.....	7 pr. ct.	\$3,000 00	\$3,150 00	Sept. 1, 1875
Morrisania Southern boulevard bonds.....	7 pr. ct.	964 67	1,050 00	Sept. 1, 1875
Morrisania Central avenue bonds.....	7 pr. ct.	1,870 00	2,100 00	Sept. 1, 1875
West Farms, Fordham and Pelham avenue bonds	7 pr. ct.	1,500 00	1,560 00	Feb. 1, 1875
Town of Eastchester bonds	7 pr. ct.	10,112 50	10,710 00	Aug. 1, 1875
Town of Eastchester bonds	7 pr. ct.	2,000 00	2,040 00	Oct. 1, 1875
Town of Pelham bonds	7 pr. ct.	5,790 00	6,120 00	Dec. 1, 1875
Town of Pelham bonds.....	7 pr. ct.	1,000 00	1,020 00	Oct. 1, 1875
Town of Pelham bonds.....	7 pr. ct.	2,000 00	2,040 00	Nov. 1, 1875
Town of Pelham bonds.....	7 pr. ct.	237 50	255 00	Dec. 1, 1875
Town of Mamaroneck bonds	7 pr. ct.	975 00	1,020 00	Oct. 1, 1875
Town of New Rochelle bonds.....	7 pr. ct.	500 00	510 00	Dec. 1, 1875
Town of Rye bonds	7 pr. ct.	3,500 00	3,750 00	Nov. 1, 1875
Morrisania Steamboat bonds	7 pr. ct.	1,000 00	1,000 00	Jan. 1, 1876
Town of Southfield, in arrears of interest two years and six months.....	7 pr. ct.	24,220 55	25,000 00	July 1, 1873
Town of Southfield, in arrears of interest two years and three months. ....	.....	15,150 00	16,000 00	Oct. 1, 1873
N. J. Midland Consolidated, Ry. Co.* .....	.....	5,440 00	5,440 00	.....

SCHEDULE B -- (Continued).

NAME OF STOCK.	Rate of Interest.	Cost.	Par value.	Estimated market value.	Date of last payment of interest.
N. Y., Oswego and Midland R. R. Co., western extension *	4,250 00	25,000 00	4,250 00	.....
N. Y., Oswego and Midld R. R. Co, equipment, convertible and sinking fund *	7,240 00	90,500 00	7,240 00	.....
		\$90,750 22	\$223,750 00	\$94,075 00	

* Accrued interest deducted from the surplus of the bank.

Report of an Institution for Savings, of its condition on the morning of the 1st day of January, 1876, made to the Superintendent of the Banking Department, as required by chapter 371, Laws of 1875.

RESOURCES.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed.....	\$327,499 90
2. Stock investments, as shown by Schedule B, hereto annexed	90,750 22
3. Amount loaned on stocks, as authorized by section 27, chapter 371, Laws of 1875, as shown by Schedule C, hereto annexed.....	
4. Banking-house and lot at cost.....	46,495 11
5. Other real estate at cost.....	4,307 17
6. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed.....	25,941 89
7. Cash on hand.....	9,444 16
9. Amount of all other assets the particular items of which are set forth in Schedule E, hereto annexed,	18,678 52
	<hr/>
	\$523,116 97
	<hr/>

LIABILITIES.

1. Amount due depositors.....	\$501,229 35
Principal	\$488,039 40
Interest credited for the six months ending January 1, 1876.....	13,189 95
2. Other liabilities, viz. : Loan from the Citizens' Insurance Company.....	10,000 00
3. Excess of assets over liabilities	11,887 62
	<hr/>
	\$523,116 97

CASH TRANSACTIONS DURING THE YEAR 1875.

Receipts.

Cash on hand and in bank or trust companies January 1, 1875, before transactions of that day.....	\$47,430 65
From depositors	1,253,746 37
From interest on loans, deposits and investments	34,822 83
From all other profits, viz. : Premiums, \$2,338.08 ; rents, \$216 ; commission, \$372.75 ; collections, \$23.89	2,950 72
From mortgages, paid, called in, or foreclosed	21,650 00

From redemption of stocks, \$2,000 ; sold, \$162,566.95,	\$164,566 95
From loans repaid	79,682 80
From other sources, viz. : Sold property, \$5,065.56 ; sold furniture, \$3,358.33 ; loan from Citizens' Insur- ance Company, \$10,000.....	18,423 89
	<hr/>
	\$1,623,274 21
	<hr/>

Payments.

To depositors, including interest paid to them	\$1,379,350 37
For loans on bonds and mortgages.....	53,999 90
For loans on stocks and other securities.....	
For stocks and bonds purchased, par value, \$231,250,	104,542 50
For real estate purchased	42,957 36
For interest, not included in payments to depositors,	1,734 89
For expenses as shown by Schedule F, hereto annexed	5,302 94
Other payments, viz.....	
Cash on hand and in bank December 31, 1875, after the transactions of the day	35,386 05
	<hr/>
	\$1,623,274 1
	<hr/>

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss. :

Jacob Held, president, and William Hoeland, secretary of the German Savings Bank of the Town of Morrisania, an institution for savings, organized under the laws of the State of New York, located and doing business at One Hundred and Fifty-eight street, in the city of New York, being sworn each for himself, saith that the foregoing report of resources and liabilities and cash transactions, accompanying this report, designated respectively A, B, C, D, E, F and G, are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of January, 1876, in respect to each and every of the items and particulars therein specified.

JACOB HELD,
President.
WM. HOELAND,
Secretary.

Severally subscribed and sworn
by both deponents, the 26th day }
of January, 1876, before me.

EARNEST HALL, *Notary Public.*

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss. :

Nicholas Theil, J. Christopher Freedman and George Zenschuer, being duly sworn, each for himself, saith that he is one of a committee of three, regularly appointed by the trustees of the German Savings Bank of the Town of Morrisania, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings (as provided and directed by section 45 of chapter 371 of the Laws of 1875), and that the within statement of assets is a true statement of the value of such assets in possession of and owned by said institution on the morning of January 1, 1876, as appeared by the examination made by such committee, in pursuance of section 45 of the law above cited.

J. CHR. FREEMAN.
GEORGE FUESCHNER.
NICHOLAS THEIL.

Subscribed and sworn by each }
deponent, before me, this }
26th day of January, 1876. }

EARNEST HALL,

Notary Public.

Q. After that report came in was it seen by Mr. Ellis? A. I don't know, sir.

Q. Will you produce the report of this bank for the following year (January 1, 1877)? A. Yes, sir; it is filed February 2, 1877.

Mr. TRACY — I put that report in evidence, as follows:

SCHEDULE B.

STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States and interest-bearing treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stocks or bonds of villages. 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of Interest.	Cost.	Par value.	Estimated market value.	Date when last payment of int. was due.
Town of Morrisania bds., March, 1877..	7 pr. ct.	\$1,000 00	\$1,000 00	\$1,050 00	Sept. 1, 1876
Town of Eastches'r bds., Aug., 1879 1880.	7 pr. ct.	9,612 50	10,000 00	10,200 00	Aug. 1, 1876
Town of Eastches'r bds., April, 1882.....	7 pr. ct.	2,000 00	2,000 00	2,040 00	Oct. 1, 1876
Town of Eastches'r bds., Aug. 1878.....	7 pr. ct.	500 00	500 00	510 00	Aug. 1, 1876
Town of Morrisania Central new bonds, March, 1876.....	7 pr. ct.	1,870 00	2,000 00	2,100 00	Sept. 1, 1876
Town of Pelham bonds, June, 1880, 1881	7 pr. ct.	5,790 00	6,000 00	6,120 00	Dec. 1, 1876
Town of Pelham bonds, Oct., 1880.....	7 pr. ct.	1,000 00	1,000 00	1,020 00	Oct. 1, 1876
Town of Pelham bonds, Nov., 1881.....	7 pr. ct.	2,000 00	2,000 00	2,040 00	Nov. 1, 1876
Town of Pelham bonds, 1893.....	7 pr. ct.	237 50	250 00	255 00	Dec. 1, 1876
Town of Mamaroneck bonds, April, 1889	7 pr. ct.	975 00	1,000 00	1,020 00	Oct. 1, 1876
Town of New Rochelle bds., June, 1879..	7 pr. ct.	500 00	500 00	500 00	Dec. 1, 1876
Town of Southfield bonds, July, 1875....	7 pr. ct.	24,220 55	25,000 00	25,000 00	July 1, 1873
Town of Southfield bonds, April, 1879....	7 pr. ct.	14,250 00	15,000 00	15,000 00	Oct. 1, 1873
Town of Southfield bonds, April 6, 1874...	7 pr. ct.	900 00	1,000 00	1,000 00	Oct. 6, 1873
Morrisania Steamboat bond, Jan., 1881...	7 pr. ct.	1,000 00	1,000 00	1,000 00	July 1, 1876
N. J. Midland Consolidated Railroad Co. bonds*	7 pr. ct.	6,400 00	32,000 00	6,400 00	

SCHEDULE B—(Continued).

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.	Date when last payment of int. was due.
N. Y. and Oswego Midland R. R. Co. bond, western extension*	7 pr. ct.	\$6,250 00	\$25,000 00	\$6,250 00	
N. Y. and Oswego Midland R. R. Co. bds, equipments convertible sinking fund* ..	7 pr. ct.	8,326 00	90,500 00	8,326 00	
		\$86,831 55	\$215,750 00	\$89,841 00	

* Accrued interest calculated on cost from January 1, 1876.

GERMAN SAVINGS BANK OF MORRISANIA.

SCHEDULE E— No. 2.

ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED.

Amount of Schedule E, No. 1.

Excess of market value of stock investments over cost,	\$3,009 45
Interest accrued and due on bonds and mortgages, such interest not being in arrears six months	5,892 50
Interest accrued and due on stock investments, such interest not being in arrears six months, nor included in the market value of stocks, as shown by Schedule B,	1,978 96
Interest accrued and due on loans and deposits, such interest not been in arrears six months	14 51
Interest due on bonds and mortgages in arrears six months.....	927 00
Interest on stock investments in arrears six months ...	
Interest due on loans and deposits, in arrears six months,	
Furniture and fixtures, included in real estate	
Other assets, viz.: interest accrued on town of South-field bonds	8,328 83
Interest accrued on Midland Railroad bonds.....	1,468 32
	<hr/>
	\$21,619 57
	<hr/>

In pencil: "Please make a statement showing the valuations of accrued interest, and also give particulars concerning town of South-field bonds, and the railroad bonds owned by your bank. Give last quotations of the railroad bonds."

In pencil: "Please complete and return."

HY. L. LAMB,
Dep.

GERMAN SAVINGS BANK OF THE TOWN OF MORRISANIA }
MORRISANIA, N. Y., *February 3, 1877.* }

STATEMENT OF CALCULATIONS OF ACCRUED INTEREST.

29,150 of bonds and mortgages at 6 per cent for 6 months, Jan. 1, '76—July 1, '76.....	\$874 50
The same at 6 per cent, for 6 months, July 1, '76-Jan. 1, '77	\$874 50
\$1,500 of bonds and mortgages at 7 per cent, for 6 months, Jan. 1, '76—July 1, '76.....	52 50

The same at 7 per cent, for six months, July 1, '76—Jan. 1, '77.....	\$52 50	
\$1,600 of bonds and mortgages at 6 per cent for 6 months, July 1, '76—Jan. 1, '77.....	48 00	
\$140,500 of bonds and mortgages at 7 per cent for 6 months, July 1, '76—Jan. 1, '77.....	4,917 50	
	<hr/>	<hr/>
	\$5,892 50	\$927 00
	<hr/>	<hr/>

By mistake \$38 were added to interest due on bonds and mortgages in arrears six months, which belonged under the heading of interest accrued and due on bonds and mortgages, such interest not being in arrears six months.

ON BONDS AND STOCKS.

\$1,000 town of Morrisania, 7 per cent, 4 months	\$23 33	
\$10,000 town of Eastchester, 7 per cent, 5 months.....	291 67	
\$2,000 town of Eastchester, 7 per cent, 3 months.....	35 00	
\$500 town of Eastchester, 7 per cent, 5 months.....	14 58	
\$2,000 town of Morrisania, Central ave. bonds, 7 per cent, 4 months	46 67	
\$6,000 town of Pelham dock bonds, 7 per cent, 1 month,	35 00	
\$1,000 town of Pelham bond, 7 per cent, 3 months....	17 50	
\$2,000 town of Pelham bond, 7 per cent, 2 months....	23 33	
\$250 town of Pelham bond, 7 per cent, 1 month	1 46	
\$1,000 town of Mamaroneck bonds, 7 per cent, 3 months,	17 50	
\$500 town of New Rochelle bonds, 7 per cent, 1 month,	2 92	
\$1,000 Morrisania steamboat bond, 7 per cent, 6 months,	35 00	
\$41,000 town of Southfield bonds, July 1, '76—Jan. 1, '77,	14 35	
	<hr/>	<hr/>
	\$1,978 96	
	<hr/>	<hr/>
\$25,000 town of Southfield, July 1, '73—July 1, '76 ...	\$5,250 00	
\$15,000 town of Southfield, October 1, '73—July 1, '76,	2,887 50	
\$1,000 town of Southfield, October 6, '73—July 1, '76,	191 33	
	<hr/>	<hr/>
	\$8,328 83	
	<hr/>	<hr/>
\$6,400 N. J. Midland consolidated, 7 per cent bonds,		
Jan. 1, '76—Jan. 1, '77		\$488 00

\$6,250 N. Y. and Oswego Midland western extension, per cent, Jan. 1, '76-Jan. 1, '77.....	\$437 50
\$8,326 N. Y. and Oswego Midland, equipment (con- vertible and sinking fund), 7 per cent, Jan. 1, '76- Jan. 1, '77.....	582 82
	<hr/>
	\$1,468 32
	<hr/>

Report of the German Savings Bank, of the town of Morrisania, an incorporated institution for savings, of its condition on the morning of the 1st day of January, 1877, made to the Superintendent of the Banking Department, as required by chapter 371 of the Laws of 1875.

RESOURCES.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed.....	\$172,750 00
2. Stock investments, as shown by Schedule B, hereto annexed.....	86,831 55
3. Amount loaned on stocks, as authorized by section 27, chapter 371, Laws of 1875, as shown by Sched- ule C, hereto annexed.....	60 00
4. Banking-house and lot at cost.....	46,495 11
6. Other real estate at cost.....	8,900 37
7. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed.....	11,075 80
8. Cash on hand.....	2,596 60
9. Amount of all other assets, the particular items of which are set forth in Schedule E, hereto an- nexed.....	21,619 57
	<hr/>
	\$350,329 00
	<hr/>

LIABILITIES.

1. Amount due depositors.....	\$299,237 79
Principal.....	\$290,840 00
Interest credited for the 1st of July, 1872.....	8,397 79
2. Other liabilities, viz.: Loans on stock, \$19,000; loans on bonds and mortgages, \$20,000.....	39 000 00
3. Excess of assets over liabilities.....	12,091 21
	<hr/>
	\$350,329 00
	<hr/>

CASH TRANSACTIONS DURING THE YEAR 1876.

Receipts.

Cash on hand and in bank or trust companies, Jan. 1, 1876, before transactions of the day.....	\$35,386 05
From depositors, not including interest credited	817,354 26
From interest on loans, deposits and investments....	22,189 97
From all other profits, viz.: Premiums, \$; rents, \$740.50 ; collections, \$170.91.....	911 41
From mortgages paid, called in or foreclosed.....	155,400 00
From redemption of stocks.....	8,000 00
From loans repaid.....	
From other sources, viz.: Loans on stocks and bonds and mortgages.....	84,000 00
	<hr/>
	\$1,123,241 69
	<hr/>

Payments.

To depositors, including interest paid to them.....	\$1,038,602 70
For loans on bonds and mortgages.....	650 10
For loans on stocks and other securities.....	60 00
For stocks and bonds purchased, par value, \$; costs, including premiums, commissions, etc.....	
For real estate purchased.....	4,593 20
For interest (other than interest payments to depositors).....	1,611 89
For expenses, as shown by schedule F, hereto annexed,	5,051 40
Other payments, viz.: Loans on stocks and bond and mortgages, \$55,000; on account of Midland bonds, \$4,000.....	59,000 00
Cash on hand and in bank or trust companies Dec. 31, 1876, after the transactions of the day.....	13,672 40
	<hr/>
	\$1,123,241 69
	<hr/>

STATE OF NEW YORK, {
COUNTY OF NEW YORK, { ss.:

Jacob Held, president, and William Hoeland, secretary, of the German Savings Bank, of the town of Morrisania, an institution for savings, organized under the Laws of the State of New York, located and doing business at One Hundred and Fifty-eighth street, in the

city of New York, being duly sworn, each for himself saith, that the foregoing report of resources and liabilities and cash transactions, and the schedules accompanying this report designated, respectively, A, B, C, D, E, F and G, and all lists accompanying the same are, in all respects correct, and show the true condition of said institution before the transactions of any business on the morning of the 1st day of January, 1877, in respect to each and every of the items therein specified, and particulars above specified, according to the best of his knowledge and belief.

JACOB HELD,

President.

WM. HOELAND,

Secretary.

Severally subscribed and sworn by both }
deponents, the 20th day of January, }
1877, before me.

ERNEST HALL,

Notary Public (79), City and Co. of N. Y.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

J. Christian Freedman, Adolph Hupfel and Valentine Frees, being duly sworn each for himself saith, that he is one of a committee of three regularly appointed by the trustees of the German Savings Bank, of the town of Morrisania, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings (as provided by section 45 of chapter 371 of the Laws of 1875), and that the within statement of assets is a true statement of the value of such assets in possession of and owned by said institution on the morning of January 1, 1877, as appeared by the examination made by such committee, in pursuance of section 45 of the law above cited.

J. CH. FREEDMAN.

ADOLPH G. HUPFEL.

VALENTINE FREES.

Subscribed and sworn by each depo- }
nent before me this 20th day of }
January, 1877.

ERNEST HALL,

Notary Public (79), City and Co. of N. Y.

Q. Do you know whether any thing was done, and if so what in the department, on the reception of this report of January 1877? A. I don't recollect that any thing was done beyond the explanation that was put upon it, and then it was returned with the explanation.

Q. That sending of it back was by your direction? A. Yes, sir.

Q. Where was the closing of this bank carried on; at Albany or New York? A. It was my impression that a committee representing the trustees came to Albany.

Q. Did you see that committee? A. I saw them go through the outer office to Mr. Ellis' room.

Q. Will you state what occurred there, and what was said and done under your observation? A. The committee came into the office before Mr. Ellis had reached the office and enquired for him; they waited a little while until he came in, and then all the gentlemen went to his room; I was not present at the interview.

Q. About what time was that? A. I should think about the latter part of February; there is a telegram here from one of the committee (Frank Sigel) to Mr. Ellis, which I had better read perhaps.

“MORRISANIA, N. Y., 21st.

“To DE WITT C. ELLIS., Albany, N. Y., February 21, 1877
Superintendent of Bank Department:

“Please inform the undersigned on what day you can be seen on business of importance.

“F. SIGEL.”

Mr. TRACY — We put the telegram in evidence.

Q. What year was that? A. Twenty-first of February, 1877; my impression is that this telegram relates to that interview between the committee of trustees and Mr. Ellis during the last winter.

Q. After they went into Mr. Ellis' room was the rest of the interview in your presence; was it in the presence of any of the clerks in the department? A. Not to my knowledge.

Q. Mr. Ellis was there? A. Yes, sir; he conferred with these gentlemen.

Q. Do you know of any examination being made of this bank after April 24, 1875, by the order of the department? A. There is no examination on file in the office, as I know of.

Q. Was there any evidence furnished to the department of the making up of a deficiency, in any way, in the bank, other than by the bank's annual reports, which have been read? A. Yes, sir.

Q. What was it? A. A letter from Ernest Hall, attorney of the bank, dated January 26, 1876.

Q. Is there any thing else about that? A. I think not; I think

there is not ; there may have been other interviews between Mr. Ellis and the trustees that I don't recall.

Q. Read Hall's letter, if you please, and let it be marked in evidence? A.

"OFFICE OF ERNEST HALL, ATTORNEY AND COUNSELOR,
 "167TH STREET, NEAR WASHINGTON AVENUE, MORRISANIA; }
 "NEW YORK CITY, *January 26. 1876.*

"HON. DE WITT C. ELLIS, *Superintendent Bank Department :*

"DEAR SIR.— Herewith you will find report of the German Savings Bank of the town of Morrisania. The officers would have sent it before, but in the present state of financial depression they found it difficult to make up the deficiency which existed.

"The objectionable bonds, of which the par value would be \$147,000, are placed in the report at \$17,000, which, I am informed, is much below their present value. We had hoped to wipe them out entirely and shall do so, in any event, before another report is made. But there are two good reasons why they are put in the report now merely at a nominal value. One is that the balance of the loan for which they were held as collateral was \$90,500, and this amount over our surplus (nominal) of \$27,000, had to be made up by the trustees. It has been done by deposit of cash and first-class seven per cent securities.

"The other reason is that we are credibly informed that eventually the bank can recover a portion of the bonds which were fraudulently exchanged from these, and are worth par, and in that case they must stand in the name of the bank, but before another report they will be put in merely in name and nothing more.

"There are some of the trustees who have not been able to raise their share of money up to this time who will undoubtedly do so before long and that will make up the full amount without any of the bonds.

"If there are any suggestions which you could make in regard to the report to the future action of the bank, we should be pleased to hear them. The trustees mean to run the bank on principles of economy and for the interest of the depositors only.

"Yours, very respectfully,

"ERNEST HALL,

"*Attorney for German Savings Bank.*"

Q. Was any response to that letter sent by Mr. Ellis? A. That would appear by the letter-book [looking at same] ; there does not appear to be any correspondence going out of the office at that time or for a long time afterwards in regard to this bank ; I find no cor-

respondence ; I have an impression there were oral interviews between Mr. Ellis and some of the officers of the bank at different times, but I was not present at them and I don't know what they were.

Q. Do you find in the department any proofs, affidavits, certificates or other evidence of the deficiency being made up as mentioned in the attorney's letter ? A. No, sir, I don't know of any thing relating to it except that.

Q. Do you recollect when the January report of 1877 came in ; whether that went to Mr. Smith in the usual course ? A. I couldn't state, positively.

Q. But the usual course was taken ? A. Yes, sir ; all reports go there.

Q. Was this bank closed on the request of the trustees ? A. I think they closed it up, and I think the question whether they would resume was in abeyance for several months ; the business stopped by the action of the trustees, I believe.

Q. Didn't they come to the superintendent to have it wound up ? A. Yes, sir ; there don't appear to be any correspondence whatever about the bank.

Cross-examined :

By Mr. CHAPMAN :

Q. You speak about its being closed up on the action of the trustees ; you don't wish to convey to this Senate the idea that the trustees themselves proceeded affirmatively to close it up, but that it was closed up on the usual letter from Mr. Ellis to the Attorney-General ? A. I don't know of any letter ; the index made by Mr. Werner to the letter-book does not indicate any letter was written, unless it was in a later book than I have got here.

Q. I see the question was asked : " What is the date of your letter to the Attorney-General, Feb. 24, '77 ? " If you look under that date you may find the letter copied, if it is copied into your letter-book ?

A. The index does not cover this bank, because the case came up yesterday, and Mr. Werner brought the papers to me this morning, and, therefore, I am not familiar with it.

Q. Turn to the date, Feb. 24, '77.

Senator WOODIN — What is the use of spending time over that, Mr. Chapman ? It already appears in the printed book that he wrote such a letter to the Attorney-General.

Mr. CHAPMAN — It was to meet the particularly shaped question of my friend upon the other side.

A. I find a letter addressed by Mr. Ellis to the Attorney-General, dated Feb. 24, '77.

Q. Read it ? A.

“ HON. CHAS. S. FAIRCHILD, *Attorney-General, etc.* :

“ SIR — I respectfully call your attention to the condition of the German Savings Bank of the town of Morrisania. The only report of this institution for Jan. 1st '77, shows total assets \$350,329, and total liabilities of \$338,237.79, making an apparent surplus of \$12,091.21. Since that date the deposits have been drawn down to about \$250,000, and the officers of the bank have been compelled to require the time for payment provided for in their by-laws. It is evident that public confidence is lost, and the character of the assets that I believe the officers will not be able to meet the demands of the depositors. After a careful examination of the assets, and from a conversation with some of the officers of the institution, I deem it in the interest of the depositors to close up its affairs; I, therefore, recommend that you take the legal steps to that end.

“ Respectfully yours,

“ D. C. ELLIS,

“ *Superintendent.*”

Q. The Attorney-General commenced proceedings right along as you understand it.

Senator BRADLEY — That appears by the evidence doesn't it? A. I can't tell about that.

Q. How long before the receiver was appointed under those proceedings? A. I think the receiver was not appointed until July after.

Q. After the bank had been handed over to the Attorney-General there were negotiations between the banks and the Attorney-General, for months, in regard to making up this deficiency and getting themselves into shape so as to go on again? A. That is my understanding?

Q. There was a petition signed by a large majority of the depositors, asking that the bank not be put in the hands of a receiver, was there not?

Mr. TRACY — We would rather see the paper if there was such a paper.

Q. Was it understood in the department that such was the case?

Mr. TRACY — We would like to know how it was said, and who it was that said it.

The PRESIDENT — It is not competent to prove the contents of a petition in this manner; if objected to it is necessary to produce the paper; the question calls for the contents of a written instrument; it seems to the Chair to be incompetent.

Q. Mr. Lamb did you have any conversations with Mr. Ellis in regard to there being a petition signed by a large majority of the

depositors asking that the banks be not put into the hands of a receiver? A. I am clear as to every thing in the question except the number of depositors; Mr. Ellis and myself had conversations about this business and about the condition of this bank after his letter was sent to the Attorney-General, and I understood that there was a movement among the depositors to resume business, reopen the bank, and go on.

Q. And that the Attorney-General delayed action on the request of depositors? A. That is my understanding.

Q. And that his delay was continued along for some four or five months? A. Yes, sir.

Senator STARBUCK — How soon did the Attorney-General act after the receipt of this letter of February 24, '77?

Mr. CHAPMAN — He commenced proceedings right away, and they were allowed to slumber along until in July, when a receiver was appointed.

The WITNESS — I think it was in July before a receiver was actually appointed.

Senator WOODIN — Papers for the appointment of a receiver were served February twenty-eight, four days after the writing of this letter.

Q. Now go back to the prior examination of Mr. Reid, in '75; is it or is it not within your recollection that shortly after the receipt of that report a committee of the bank officers came up to Albany to see the department in regard to the deficiency? A. I couldn't tell when committees came; I think different committees were here on two or three, or perhaps four, different occasions, but I have no means of fixing the dates.

Q. Is it not your recollection that not long after the receipt of the report of Mr. Reed's examination in '75, there came a committee of the trustees of the bank, and had a consultation with the department? A. No, sir; I don't recollect.

Q. You can't tell in regard to that? A. No, sir.

Q. But you recollect that committees several times came up, and had consultation with him in regard to the matter? A. Yes, sir; I never was present at any of these conferences, so I can't state about that.

Q. What occurred between them and the superintendent you have no knowledge of? A. No, sir.

Q. What occurred between Mr. Ellis and the persons at the bank you have no knowledge of, if any thing occurred? A. No, sir.

By Senator GERARD:

Q. When was the report of 1877 received in the department? A. February second.

Q. It is dated January first? A. For the first day of January; the report of the condition of the bank on the first day of January

By Senator Woodin:

Q. In the letter which Mr. Ellis addressed to the Attorney-General, he speaks of an examination of the character of the securities of the bank; after a careful examination of the character of the securities he became satisfied so and so; do you know from recollection or can you state to us whether there was any change in the character of the securities or assets which the bank held at that time within a year prior, or whether they were essentially the same in character? A. Well, the bank had —

Mr. WOODIN — I don't know but the reports show.

Mr. TRACY — By comparison they can be shown; they were put in to be read here.

Senator WOODIN — Then I will not take the time to inquire into it.

The WITNESS — I can state briefly what happened.

Senator WOODIN — I would like to hear that then.

The WITNESS — The bank held a large quantity (that is in proportion to its assets) of railroad bonds, Midland bonds, and New Jersey Midland bonds, which had depreciated very largely in value, and the trustees of the bank took out those securities, or marked them down, and put in, in order to make the deficiency created by that deficiency, a considerable sum of money and a larger sum of bonds and mortgages instead of the railroad bonds which the bank had formerly held.

By Senator STARBUCK:

Q. You have shown that on the 24th of April, 1875, \$77,000 was reported as the deficiency, but at the expiration of nine months a letter was received asking that that deficiency should be made good, now you show that one year and ten months after this, April 24, 1875, directions were given to the Attorney-General to take action, what explanation can you give of the reason of the delay of one year and ten months after the report of \$77,000 deficiency before taking action? A. The letter which I have read, written by the attorney of the bank in 1876, just about thirty days after Mr. Ellis' requisition to make the deficiency good, asserted that the trustees had put in bonds and mortgages and cash to make up the great bulk of that deficiency, and he also stated that some of the trustees had not been able, owing to the

condition of financial matters, to get their share and pay it in, but they proposed to do it soon.

By Senator GERARD :

Q. After receiving that letter from the attorney to which you allude, was there any special examination made to see whether the trustees had complied with their promises? A. Not that I know of.

Q. When was that letter dated? A. Twenty-sixth of January, 1876.

Q. When was the next examination, special or regular, after that date? A. I don't recollect that any was made; I could tell exactly by looking at the commission-book.

Q. Was there any until the next regular examination in 1877? A. I don't think any examination was made subsequent; that is my recollection.

Q. Not until the report 1877 was there any show of assets—no exhibition? A. No, sir; except in their reports.

Q. You thought there was a certain class of securities, as well as I could understand you, but not considered proper assets? A. Yes, sir.

Q. You say there was a substitution, by the trustees, of what was considered insufficient, of bonds and mortgages? A. Yes, sir.

Q. Was there any examination of those bonds and mortgages to see what their character was, or the nature of the lien given, or the value? A. I don't find any record evidence of any such examination made.

Q. Then you took merely the statement of the trustees and of its attorney? A. I find no record evidence; I have explained that when a bank got into difficulty Mr. Ellis went to New York and conferred with its officers, and made arrangements and requests that I had no knowledge of.

By Senator ST. JOHN :

Q. Had you or the department any knowledge that these trustees, who promised or who assumed to have put in money to make up the deficiency of this bank, ever put in a dollar? A. I had their statement; I had no evidence.

Q. Had the department any thing that was tangible to show that fact? A. I couldn't tell what proof had been exhibited to Mr. Ellis, who often goes to New York and deals with these banks.

Q. Is there nothing to show, when a bank reports as is indicated by the letter of their attorney, that the deficiency is to be made good; is there no report to the department, in some tangible form, that that

deficiency has already been made good ? A. I know of none in this case.

By Senator WOODIN :

Q. Was not there a report made in January, 1875 ? A. Yes, sir.

Q. After this requisition ? A. Yes, sir.

Q. And didn't that show a surplus of some \$11,000 or \$12,000 ? A. Yes, sir.

Q. That statement is sworn to, isn't it ? A. Doubly sworn to.

Q. Then there is some evidence in the department that this deficiency has been made good ? A. Yes, sir ; as I have said, by the statements of officers.

Q. You mean by the sworn reports ? A. Yes, sir.

Q. How about the report of the first of January, 1877 ? A. The report of the 1st of January, 1877, showed a deficiency.

By Mr. CHAPMAN :

Q. I don't understand that the superintendent, in his letter to the Attorney-General, bases his application in this case upon there being a deficiency found by an examination ; he bases his action in this case upon the general character of the assets and the condition of the bank, and the impossibility of its succeeding as stated in his letter, and not upon an examination, as in other cases ; after looking over, comparing and examining the report of 1877, and probably after consultation with the trustees ; now, some one round the circle asked the date of the filing of this report of 1877, and you answered February 2, 1877 ; was this report sent back to the bank for correction ? A. I think the filing indicates the date of its original receipt in the department.

Q. So, after the 2d of February, 1877, the department, or some one in the department, looked it over and found corrections which it was necessary to have made, and also found other things which they wished the bank to fill out, and they sent them back to the bank to make the corrections ? A. Yes, sir.

Q. Have you any means of knowing when this report came back from the bank, the second time, corrected as required ? A. I couldn't tell.

By Senator BRADLEY :

Q. Did the department have any information, whatever, except that derived from the trustees in February, upon which the superintendent acted in writing this letter to the Attorney-General ? A. I can't tell what information Mr. Ellis had, personally.

Q. Did you know of any information derived from any other source,

up to that time, upon which this action of the superintendent was taken ? A. No, sir ; I did not.

By Senator GERARD :

Q. I see, in the examination of 1875, April twenty-fourth, of Mr. Reid, that the unfinished banking-house is valued at \$20,684 ; and I see, in the report made by the bank, of 1876, they increase that amount and make it \$46,000 ; do you know any reason for that change in figures between 1875 and 1876, by reason of the rise in real estate or additions to this bank, or otherwise ? A. It was a new building erected by the bank ; and when Mr. Reid made his examination in 1873, the construction of the bank, as I understand it, was still going on.

Q. Where was the bank ? A. In Morrisania, on Third avenue.

Q. You don't know any other reason for the increase of \$26,000, except a possible addition to the building in actual construction ? A. That is all the knowledge I have of it.

By Mr. CHAPMAN :

Q. Since this bank was handed over to the Attorney-General, I will ask you whether it is not within your knowledge that the delay has occurred by reason of the depositors themselves to the extent of \$196,000, requesting the delay and agreeing to take seventy-five cents on the dollar, in order to have the bank go on and not go into the hands of a receiver, and requesting the Attorney-General to delay action ? A. I have not knowledge as to the specific number of trustees or other details in that proposition or movement of the depositors.

Q. But you have the general knowledge that the depositors have always been averse to putting the bank into the hands of a receiver ?

A. Yes, sir ; and hopes of it going on.

Q. And this endeavor to carry the bank along and resist the applications have come largely from the depositors themselves as you understand it ? A. Yes, sir, as I understand it.

By Mr. TRACY :

Q. Did you understand that the depositors who had thus applied to keep it together knew the real condition of that bank and its assets ?

A. No, sir.

By Senator SCHOONMAKER :

Q. I did not understand you when you answered the question of a Senator what the report of '76 contains to show as to the deficiency of the bank being made good ? A. The report of '76 shows by its figures an excess of assets ; accompanying that report is the letter of Mr.

Hall, the attorney, stating how the condition of the securities had changed and been improved withdrawing bad railroad bonds, and putting in cash and bonds and mortgages.

By Mr. CHAPMAN :

Q. And the details of these schedules proved that, didn't they ; the details given under them ? A. Yes, sir.

Q. This law of 1875 required an examination of these securities to be made by three of the trustees, who reported under oath, and also the report which is sent to the department, has to be made under the oath of the president and secretary.

Mr. TRACY — I submit it is unnecessary to examine Mr. Lamb about the contents of that statute. The Senators can all read it.

Mr. CHAPMAN — I will change the form of the question.

Q. The statute of 1875 relative to swearing to these statements, imposed upon other officers the duty of examining and swearing to the contents of some portions of these statements ? A. Yes, sir.

Q. And this was not existing in the law prior to the law of 1875 ? A. No, sir.

Q. It was a new provision of statute ? A. Yes, sir.

By Mr. TRACY :

Q. You observe that by the bank's sworn report of January 1, 1875, it had a surplus of \$27,000 and over, and that by the report of Mr. Reid, the examiner, made three months afterward (in April), it had \$77,000 and odd deficiency, making together about \$105,000 deficiency between the sworn report of the bank and the return of the examiners ; do you recollect, Mr. Ellis, in any of his conversations with you remarking or commenting upon the enormous difference between the bank's report and his examiner's return, three months afterward ? A. I don't recollect that ever was mentioned.

By Senator SCHOONMAKER :

Q. Can you explain why the Attorney-General delayed his action for the appointment of a receiver ? A. My understanding of it was that the trustees and a portion of the depositors —

Q. [Interrupting.] I don't want your understanding at all ; I want your knowledge ? A. My knowledge is that the trustees and a portion of the depositors desired to put this bank in a condition to do business, and the depositors proposed to take a fraction of their deposits in payment of their claims, and leave the money in the bank, and resume business and go on.

Q. How do you connect that with the Attorney-General ? A. The Attorney-General waited to see if that could be done ; what reasons he had I don't know.

Q. How was that communicated to the Attorney-General; how do you know that the Attorney-General had that knowledge at all? A. I can't swear that he did have the knowledge or that he acted upon it if he did have it.

Q. That was the very point of my inquiry, whether you could explain the reason of his delay; are you now in possession of any knowledge to explain his delay; that is, can you state whether he was informed by any one of these facts which you have stated? A. No, sir; I cannot.

By Senator GERARD:

Q. Were those depositors who requested the delay also trustees of the bank, to your knowledge or understanding? A. I can't tell whether they were or were not.

By Senator BRADLEY:

Q. After this report of Reid came in in April to the department, showing the difference of upward of \$100,000 between the report of January by the bank, and this report of the examiner, did that produce any comment in the department upon the character of the officers who made this report? A. I don't recollect that it did.

Q. Can you account, reasonably account for this great discrepancy, without some imputation upon the character of the officers of the bank who made the report? A. That is a matter of opinion; I have an opinion about it.

Q. I simply ask you that question, whether you can account for it any other way, reasonably account for it, upon any fact? A. My conclusion is that it does throw an imputation upon the officers of the bank.

Q. Whether that fact was a subject of conversation after the report of Mr. Reid came in in April, between you and Mr. Ellis? A. No, sir.

By Mr. CHAPMAN:

Q. Do you say that there was any such transaction, or that you have no recollection of it? A. I have no recollection of any such conversation, I will say, or any allusion to this matter.

Isaac Smith recalled on behalf of the State:

By Mr. TRACY:

Q. Have you taken either of the reports of 1875, 1876 or 1877, and examined them particularly? A. Yes, sir.

Q. Begin with the report of 1875 ? A. I wish to state, in regard to the examination, that at first they were more with reference to the proper places for the assets, liabilities, footings, and so on ; and sometimes in reference to the character of the assets ; but then we had not the time to examine them, but they have been more rigorously examined in later years, in 1877 particularly.

Q. Have you any statements that you made as the result of your scrutiny of these reports ? A. No, sir.

Q. Of '75 have you ? A. No, sir.

Q. Now go to '76 ? I have none of that.

Q. Of '77 ? A. I have no statements ; I have memorandum simply.

Q. As to each ? A. As to '77 ; none as to '76.

Q. No memorandum after '75 ? A. No, sir.

Q. After you examined the report of January 2, '76, did you or not have any conversation or communication with Ellis upon that subject ?

A. I think not, sir.

Q. After the report of January 1, '77, did you have any conversation with Mr. Ellis to that ? A. Yes, sir.

Q. Will you tell what you said and what you showed him ? A. I didn't have any conversation with Mr. Ellis in reference to that report until after it had been corrected ; the papers show about what time it was returned ; the memorandum was on the margin of the report of the year prior at the page where the German Savings Bank statement was printed ; on the left-hand margin I have made an entry.

By Mr. McGUIRE :

Q. Do you claim that you showed or read that to Mr. Ellis ? A. I handed it to him in the large room to read.

By Mr. CHAPMAN :

Q. Was that before or after he had reported it to the Attorney-General ? A. It was before.

Q. How long before ? A. Oh, some time before ; you can tell pretty near by the date of the papers and the letter to the Attorney-General ; February 24th proceedings were commenced, and I should judge, it was a couple of weeks before that time ; the papers will show about the time ; I don't know as those were very material, but I thought they were ; interest and arrears over \$10,000 included in assets ; \$29,150 of mortgages and arrears of interest were deposited by the trustees on account of the deficiency of the Midland bonds ; deposited December 31, 1875, no interest been paid, I think ; deficiency of income.

By Mr. TRACY :

Q. Did you make any other communication to him about the result of your scrutiny of the report? A. I don't know that I did.

Q. You were in this department all this time, and did it ever come to your knowledge that the deficiency of \$77,214.68 had ever been made up? A. Only in this annual report of theirs

Q. Those reports proceeded from the officers who made the report of January, 1875, didn't they? A. I didn't notice whether they did or not.

Q. The president and secretary? A. I don't know that they were the same persons; it was the president and secretary.

Cross-examined :

By Mr. CHAPMAN :

Q. Can you tell me the date when that report of 1877 was received in the department the last time? A. There was a letter received with it when it came back.

Q. When do the reports begin to come into the department? A. Soon after the first of January.

Q. Do you take them up in the order of their receipt to examine? A. I try to take them up in the order of their receipt.

Q. February second you must have been very busy with your hands full in connection with these reports? A. Yes, sir.

Q. Have you any positive recollection of taking up this report of January, 1877, on the fourth of January after it was received? A. I think there is a memorandum on the back showing the date when it was returned.

Q. That is not the question I asked; have you any positive recollection of the day you took up this report for examination? A. No, sir.

Q. It may have been on the fourth, or even as late as the ninth, in the ordinary course of your business, may it not, at that time of the year? A. It depends upon when it came in.

Q. It came in on the second? A. I don't know that it did.

Q. It is filed on the second of February? A. I can't answer those things without the reports.

Q. You can't tell the precise time you took up this report and examined it? A. No, sir.

Q. You can't tell the precise time it was received the second time in the department. A. I think I could tell within a day or two.

Q. How? A. By the letter I speak of.

Mr. CHAPMAN — I wish you would produce that letter.

Senator GERARD moved that the Senate take a recess; whereupon the Senate adjourned until four o'clock, P. M.

The Senate met pursuant to adjournment at four o'clock, a quorum being present.

Isaac A. Smith resumed upon the direct :

By Mr. TRACY :

Q. Mr. Smith, the New Jersey, New York and Oswego Midland Railroad bonds in the report of 1876 to this bank are put down and valued at sums making about \$20,000, and in the report of the previous year they are put down at a different figure can you state what was the relative value of those bonds? A. No, sir; I cannot without the report; I believe, in the report of January 1, 1877, they went in a higher figure than January 1, 1876.

Q. Do you know whether they rose or fell during that twelve months? A. I dont know as to that.

William J. Best, recalled on behalf of the State, testified as follows :

By Mr. TRACY :

Q. Mr. Best, are you the receiver of the German Savings Bank of Morrisania? A. Yes, sir.

Q. When were you appointed? A. In June last; last month.

Q. Were you the first receiver? A. Yes, sir; I think the appointment was made on the fifteenth of June and I took possession on the seventh of July; there was an absence of either Mr. Lamb or Mr. Ellis, and they couldn't come down to New York to go through the securities with me; I did not on that account take possession until the seventh of July; it was necessary, in all cases, that the superintendent or deputy should go through the securities with the receiver.

Q. When you took possession did you afterwards examine into the assets as they then stood? A. Yes, sir.

Q. How much cash did you find in the bank? A. Cash in the bank and in the Germania Bank together, \$351.95.

Q. Did you find any "call loans" standing against the German Savings Bank? A. Yes, sir; there were several call loans; to the Germania Bank (with which the German Savings Bank kept an account) \$19,000; to Daniel A. Moran, \$5,000; to A. Freutal, \$15,000; to Philip W. Ebeling, \$15,000; in all \$54,000.

Q. By "call loans," what do you mean? A. Those are loans that are made subject to the call of the lender.

By Senator STARBUCK :

Q. Is this money loaned by or to the bank? A. To the bank.

By Mr. TRACY :

Q. Were there collaterals on those loans ? A. Yes, sir ; they were all secured by good collaterals.

Q. Did you examine the books of the concern to see how they stood on the 1st of January, 1876 ? A. Yes, sir.

Q. State the result of how it stood at that time ? A. That is rather a difficult matter to do ; it involves the question of judgment ; of course my appraisalment of the assets might differ from other people.

Q. On your own appraisalment of assets take it ? A. I should say it was insolvent to the extent of about \$70,000.

Q. Now, the same question as to the condition of the bank January 1st, 1877 ? A. Then I should have made the deficiency upwards of \$84,000.

Q. Do you find that this bank made dividends on both of those days ? A. Yes, sir ; the minutes show it ; the books show it.

Q. In your treatment of the whole affair to this time, what is your result as to the total value of their assets ? A. I don't comprehend your question.

Q. What do you state as to the total amount of the value of the assets at the time it closed ? A. I can give you my judgment, that is all.

Q. State from your report as receiver ? A. In making the estimate I have omitted wholly a price on the town of Southfield bonds ; the value of those bonds is entirely problematical.

By Mr. CHAPMAN :

Q. Still in litigation ? A. Yes, sir ; perhaps it would be well for me to explain to you how those bonds now stand ; they were issued by the town of Southfield, Richmond county, this State, for the drainage of the town or a portion of it, and on the alleged illegal issue or some informality the town authorities have contested the payment and no interest has been paid since July 1873 ; another bank in New York holding a large amount of them began suit against the town, I think in 1875, and the court below as I am informed (I know nothing of the merits of the case or any of the papers in it), gave judgment in favor of the validity of these bonds ; an appeal was taken to General Term and the General Term affirmed the judgment, as the lawyer who gave me the information stated, *pro forma* ; that they said it was one of those questions they did not care to pass upon and they would send it to the Court of Appeals ; it has been sent there and is there now.

By Mr. TRACY :

Q. What is the amount ? A. Forty-one thousand dollars.

Q. At par ? A. Yes, sir.

By Mr. CHAPMAN :

Q. Under the present decision the bonds are held to be valid? A. Yes, sir; as far as the case stands now but being in that condition I have not included them in my estimate of the assets, as they are beyond my control.

By Mr. MCGUIRE :

Q. In any of your statements? A. Yes, sir; in the previous statement I treated them as being worth fifty cents on the dollar; I gave that as a speculative value; leaving those bonds out entirely and taking the other bonds of the bank at as near the market value as I could ascertain by conference with different parties, the total value of the assets when I took possession would be \$171,022.91. .

By Mr. TRACY :

Q. What was the amount of the liabilities of the bank at that time? A. To depositors the liabilities were, as near as I can estimate it (there are some slight irregularities in the accounts, a hasty balance sheet taken off showing a difference between three and four thousand dollars between the dealers and depositors' ledger), I think about \$230,000 on "call loans;" to the parties I have named \$54,000, making a total of \$284,000.

By Senator WOODIN :

Q. What is the date of that? A. Seventh of July, when I took possession, I speak of; it is proper also that I should explain here, I think in regard to the banking-house; there is a wide difference between the figures that are put upon it by different appraisers for me and those at which it appears upon the bank-books; it appears upon the bank-books at \$46,495.11; I had three or four gentlemen appraise it at its present cash value if forced to sell, one of them being the late secretary, and I put it down at \$15,000.

By Mr. MCGUIRE :

Q. Leaving out the Southfield bonds, a difference of over \$70,000? A. Yes, sir.

By Mr. TRACY :

Q. Among the assets did you find any of the securities that had been put in by trustees to cover past deficiency? A. Yes, sir; I found the bonds and mortgages which are said to have been put in for that purpose, also some cash entries of the amount.

Q. To what amount? A. The bonds and mortgages aggregate \$32,550.

Q. What other assets of that description ; are there any other assets of that class put in by trustees to cover deficiency ? A. A \$1,000 bond of the Morrisania Steamboat Company ; no, it was \$32,000 of bonds and mortgages, and a bond of \$1,000.

Q. Making \$33,000 ? A. Yes, sir.

Q. Did you find how much money had been put in by trustees to cover the deficiency ? A. Yes, sir ; I think there was \$18,850 in cash.

Q. In respect to these bonds and mortgages thus put in, are they still in your hands as receiver ? A. Yes, sir ; they are in the trust company.

Q. State, if you can, about what the value of them as security is, supposing the papers are good and straight ? A. I think in the main the mortgages are all right ; there is a question raised by the makers of these mortgages as to the right of the bank to them ; notice has been served upon me directly, by one gentleman who gave two mortgages, aggregating \$15,000, and another notice has been served upon me, through my counsel, on a \$1,000 mortgage, the maker declining to pay it, and the trustee who assigned a mortgage of \$25,000 waited on me personally and told me he had notified the officers, previous to the failure of the bank, that the assignment of that mortgage was illegal, and he had reassigned it to another person for a valid consideration.

By Mr. OLMSTEAD :

Q. What is the name of the maker of the \$15,000 mortgage ? A. I believe one of them is made by J. Christopher Freedman and the other by his brother.

By Mr. TRACY :

Q. Were they made to the bank or executed to other parties ? A. Executed to other parties, and then assigned, in almost all cases.

Q. Is there any question about the priority of ownership of those mortgages between different claimants as assignees ? A. Only as to one small mortgage.

Q. A claim that his mortgage was first recorded ? A. Yes ; I expect to get dollar for dollar for it ; I think it is all right.

Q. You treat these as good mortgages ? A. Yes, sir.

Q. How many depositors stood on the books when the bank was closed ? A. About \$2,200.

Q. Do you find any thing standing in the bank about a loan of '73 ? A. To whom ?

Q. To the bank ? A. I didn't examine for any loan made to the bank in '73.

Q. Did you find any trace of a loan the other way ? A. There is a loan made to the Montclair Railroad Company, if that is what you refer to ; I have the original notes here ; there were several loans made beginning in September, 1872 ; the loan was made September 10, 1872, for \$20,000, secured by \$25,000 township bonds of Woodside, New Jersey, and the township of Kearney ; the second loan was made November 4 1872 ; \$50,0000, secured by \$54,500 first mortgage bonds of the Montclair Railroad Company, and \$16,500 Hudson Connecting Railway Company first mortgage bonds ; the third loan was made January 31, 1873, \$10,500, secured by \$15,000 of the Hudson Connecting Railway Company's first mortgage bonds ; the fourth loan was made February 28, 1873, amount \$20,000, secured by \$40,000 of the New York and Oswego Midland Railroad Company's Equipment bonds ; that is all.

Q. Do you find any thing has ever been paid upon this loan ? A. Yes, sir ; between the 1st of March and 1st of April, 1873, \$10,000 was paid.

Q. Any thing paid subsequently ? A. No, sir.

Q. Did you find some check accounts—an entry of 14,850, or something like that ; just state what that was ? A. On the 31st of December, 1875, there is an entry made on this book which purports to give the balance of the German Savings Bank with the Germania Bank ; there appears an entry here as if a deposit of \$14,850.

Q. As a deposit ? A. Yes, sir ; made by the Germania Savings Bank ; that money was not deposited in the bank, not a dollar of it ; it didn't come into the German Savings Bank until the month of January ; it is a part of the contribution made as of December thirty-first by the trustees towards the deficiency which then existed ; on the third of January Fred Folz paid in \$2,000 ; same date, Nicholas Thiel, \$2,000 ; same date, A. J. Hupfel, \$2,000 ; Charles Fritz, \$2,000 on the same day ; on the fifth, L. Zeughner, \$500 ; same date, Philip Ebling, \$1,000 ; on the tenth, C. Hake, \$2,000 ; on the eleventh, J. B. Denicke, \$2,000 ; on the twelfth, Jacob Held, \$450 ; and on the fourteenth, M. Kuntz, \$900, making a total of \$14,850, which is entered in their cash-book as a part of the loan made by the trustees toward the deficiency.

Q. Is there any thing further to be stated about that ? A. No, sir, nothing further, except that I called on the cashier of the Germania Bank, and compared the pass-book which I had with this ; the entry appeared upon this book on the bottom of the column, as the close of the year, \$25,941.89 of the sum credited to the German Savings Bank ; the balance carried up, as on the fifth of January (\$11,081.89), is correct.

Q. State whether it appears by looking at the left-hand column

that a footing was made of \$11,000, and on and carried on to the next column, and this large sum, in another hand, was added at the bottom? A. Yes, sir.

Q. Is it in a different handwriting from the first? A. It seems to be; I could not say as to that; it might be the same hand reversed.

Q. State whether it bears resemblance to the handwriting of some of them higher up a little disguised? A. I should say it did; but that is only inference.

Q. Have you the book of minutes of the trustees of this bank? A. Yes, sir. [Producing same.]

Mr. TRACY — I will read this passage.

“Regular meeting of the trustees of the German Savings Bank, of the town of Morrisania, held December 9, 1875.

“Present, Messrs. Held, Kuntz, Zuegner, Ebling, Hupel, Polf, Freutel, Held, Fritz, Frase, Denicke, Zeuschner, Schmidt, Sigel and Freedman.

“Mr. Fritz reports that \$20,000 town of Rye Bonds, and \$10,000 city stock, were sold.

“Resignation of F. F. Bragman was read, and on motion it was resolved to lay the resignation on the table. Carried.

“President Held reports that the bank examiner, Mr. Reid, was here to get information in regard to the standing of the bank.

“On motion, it was resolved that the president be authorized to bestow money on securities in case of necessity, which the bank at any time may require.”

On page 8 as follows:

“Special meeting, held January 4, 1876.

“On motion of Mr. Zuegner, it was resolved that a dividend of six per cent be declared on all sums from five dollars to \$5,000, which were deposited in the bank for three or six months previous to January 1, 1876, respectively, which was carried as follows: Mr. Kuntz, Schmidt, Freedman, Frase, Freutel, Hupfel, Ebling, Zuegner, Sigel, Fritz and Zeuschner, all voting in the affirmative.”

Q. At that time were there any net earnings in the bank? A. No, sir; I should say not.

Senator GERARD — You refer to a time anterior to the time of taking possession of the bank.

Mr. TRACY — Yes, sir.

Senator GERARD — How can he know about it? It is merely identifying the book.

Mr. TRACY — He found the minute-book and produced it here.

Senator GERARD — Very well.

Mr. TRACY — On page 9 I read as follows :

“ Regular Meeting, held January 13, 1876.

“ President Held reports that we were still short \$24,000, to make up the deficiency of the assets of the bank.”

Mr. TRACY — On page 10 as follows :

“ Special meeting, held February 3, 1876.

“ President Held states that something must be done to have more available funds.”

Also on page 15, as follows :

“ Regular meeting, held July 13, 1876.

“ On motion of Mr. Kruntz, it was

“ *Resolved*, that a dividend of six per cent be declared on all sums from five dollars to \$5,000, which were deposited in the bank for three or six months previous to July 1, 1876, respectively, which was carried as follows :

“ Messrs. Kuntz, Thiel, Fritz, Zuegner, Frase, Freutel and Schmidt, all voting in the affirmative.

“ A communication was received from the Teutonic Savings Bank in regard to the Southfield bonds, and states that the judge decided the case in favor of the commissioners and the bondholders.”

On page 16 :

“ Regular Meeting, held August 10, 1876.

“ President Held asks for information how and in which way the interest is to be paid on trustees' mortgages and cash advances.

“ On motion of Mr. Freedman, That all those trustess which advanced cash, the interest to be paid by the bank next New Years, and the interest on mortgages now and credited to the respective parties.”

On page 17 :

“ Special Meeting, held October 7, 1876.

“ President Held states that a run had commenced on the bank, on which occasion he consulted and agreed with the vice-president to enforce the sixtieth clause or rule.

“ On motion the above rules were unanimously agreed to.

“ On motion of Mr. Freedman it was

“ *Resolved*, That a call be issued to the depositors stating that the trustees of the bank will hold themselves personally responsible with all the property, and guarantee the depositors their deposits in full

provided, however, that if the depositors will not draw money unnecessary, so the bank will not be compelled to sacrifice its securities, otherwise the depositors will sustain the loss themselves."

On page 19:

"Regular Meeting, held Oct. 12, 1876.

"Mr. Freutel reports that a note of \$5,000 was discounted by the Germania Bank, and the amount, less discount, was credited to our account.

"Mr. Held reports that the vice-president of the Germania Bank, Mr. Wilkins, had examined our statement, also examined the different business accounts, and wanted \$25,000 more bonds placed in the Germania Bank as security for the amount we had on credit to our business accounts of our depositors.

"Mr. Held offered all the Southfield bonds or mortgages, but was not accepted by Mr. Wilkins as a sufficient guarantee.

"The Germania Bank forwarded a bond, to be signed by all of our trustees, to secure him to the amount of our business accounts, but was not found to be prudent by the trustees to acquiesce to their request."

Q. Do you know what the indebtedness to the Germania Bank was at that time? A. Not exactly; they had two classes of accounts there; there being no bank of deposit in the village, offered accommodations or facilities to quite a number of its customers, and arising out of this accommodation the German Savings Bank found it necessary to make arrangements with the Germania Bank to clear through the clearing-house such checks as might be drawn upon the German Savings Bank by its own customers; and it was to secure the Germania for any advances it might make upon checks drawn against the German Savings Bank that this security was asked; what the amount of it was I do not know.

Senator STARBUCK — Mr. President, the suggestion I am about to make, would, perhaps, come more appropriately from counsel than from a Senator; nevertheless I desire to be shown how the accused can be held accountable for the contents of a book of a bank in New York to which so far as appears, he had no access.

Mr. TRACY — It is the book of minutes of the savings bank. It is to show the condition of the bank. It is not alleged that Mr. Ellis knew of this, but this is the part of the case in which we seek to show that the bank was totally and very badly insolvent. It is one of the two propositions which we have to maintain. Now upon page 25 appears the following:

"January 11, 1877. On motion of Mr. Schmidt, it was resolved to declare a dividend of six per cent on all sums in the bank for the last

three or six months. *Yeas* — Messrs. Fritz, Hake, Zeugner, Schmidt, Sigel, Ebling and Thiel. *No* — Mr. Freutel.”

Q. Were there any drafts on hand to make a dividend of then? A. At all of those times there were profits, but not sufficient to make a dividend.

Mr. TRACY—On page 226 is the following :

“ *Special Meeting January 18, 1877.*

“ Mr. Freedman reported that he had conferred with Mr. Dechert, secretary, in relation to the New York Midland bonds. The latter thinks it likely that we may recover something; he desires, however, to get some more information as to how we came into possession of those bonds. On motion of Mr. Sigel, the matter was referred to a committee of two consisting of Gen. Sigel and Mr. Freedman. The chair stated that that insurance of \$20,000 on the bank building expires February first. On motion of Gen Sigel, resolved to insure hereafter the building at \$13,000 and furniture, fixtures and safes, \$2,000. The chair stated that we were pretty short in the Germania Bank as well as in our savings bank, and that something must be done to keep the business a going. On motion of Mr. Freedman, it was resolved to have a note of \$15,000, for three months, discounted by the Germania Bank, and that the indorsers receive an agreement of mortgages as collaterals for the amount of the note.

On page 227 the following :

“ *Meeting, February, 8, 1877.*

“ On motion of Mr. Sigel, it was resolved that all new deposits shall be declared as safe deposits, and all the moneys that have not been booked shall be put separate until further action by the board.”

On page 228 the following :

“ *Special Meeting, February 15, 1877.*

“ Mr. Fritz reported that the finance committee had not held any meeting because no record was made of the same. The main discussion had been relating to Mr. Freedman’s matter of \$15,000 mortgages, and Mr. Freedman wishes that this case be disposed of.

“ Mr. Held reported that it was probable that Mr. Freedman might get his mortgages back by application to the court.

“ Mr. Held desires that his matter about the extra \$1,000 mortgages may not be forgotten.

“ Mr. Freedman asks whether any member would say that he had given these mortgages other than temporary. The chair replied that Mr. Freedman was right. A resolution offered by Mr. Freedman, to

enter his matter upon the minutes, was not seconded, and Gen. Sigel wished to get information first of an expert. .

“On motion of Mr. Schmidt, it was resolved to appoint a committee of three, which shall procure information how the money which has been deposited by the trustees, exceeding the amount of \$2,000, may be legally recovered, and said committee, as soon as possible, to the President.”

On page 229, as follows:

“Special Meeting, February 20, 1877.”

“Mr. Schmidt reported that he had conferred with several persons acquainted with banking affairs, who stated neither money or mortgages that had been deposited in the bank could be withdrawn; neither could the surplus be touched for such purpose. Mr. Freedman states that he has in writing informed Mr. Held that he must have his mortgages back, and he once more notifies to-night the board else he will take proper steps. The letters of Mr. Freedman and Freutel were read, demanding the return of their mortgages.

“On motion of Mr. Zuegner, resolved, that the counsel and one trustee should proceed to Albany in order to confer with the Bank Superintendent and to submit our case. The chair appointed Mr. Sigel as such committee.”

On page 230 as follows:

“Special Meeting, February 24, 1877.”

“Mr. Sigel reported his interview with the Bank Superintendent, Ellis, who denied that he made the assertion as formerly related by Mr. Held, viz. : That he could compel the old trustees to bear their proportion of the deficiency of the railroad bonds. After the committee had reported to the superintendent the present condition of the bank it was mutually agreed to close the bank on consultation of the trustees and the superintendent. The matter of Messrs. Freedman and Freutel was also submitted to the superintendent, who, however, did not express a decided opinion.”

Also upon the same page:

“A petition to pay eighty-six dollars on account of a deposit of the deceased Susan A. Lyon, in order to defray the funeral expenses, was granted with the condition that if difficulties should arise Mr. Zeugner should pay the money back to the bank. Mr. Schmidt proposed to state in detail the conditions under which the trustees were impelled to pay their respective amounts into the bank some time ago. These conditions were as follows: As President Held had reported that the

Bank Superintendent, in the presence of counsel of the bank (Mr. Hall) had given him the prompt assurance that the old trustees of the bank, who, after the origin of the deficiency, had resigned, could be compelled to make the deficiency good, and that he even in case of their possessing nothing could hold responsible every one or all for the whole amount. It was resolved that those trustees that deposited mortgages should not pay any interest, and that those that had paid cash should be entitled to six per cent interest. This motion was unanimously adopted. Mr. Thiel asked why the mortgages of the trustees in violation of the agreement were recorded. Mr. Freedman stated that he did not want his two mortgages, under any circumstances, recorded, and that he would hold Mr. Held responsible for any damages that may arise from it. Mr. Held replied that he was advised to have the mortgages recorded, and that it was his duty to do so, as he had heard that mortgages had been transferred. It was resolved to accept hereafter no more deposits, and to keep the safe deposits, which were received since the adoption of the resolutions in a previous meeting, separate from the other deposits. Adjourned."

Mr. MCGUIRE— *Sine die?*

Mr. TRACY— Well, it says "adjourned," any way.

Cross-examination by Mr. MCGUIRE:

Q. This entry in the book of \$11,091.89 you say you found was correct by going to the Germania Bank? A. Yes, sir.

Q. Now that eleven thousand and odd dollars seemed to have been originally made at the bottom of the page? A. Yes, sir.

Q. And that same amount is carried to the top of that page [indicating]? A. Yes, sir.

Q. What is added there (\$14,850) is the amount deposited on the third or fourth or fifth of January? A. Yes, sir; between the third and fourteenth.

Q. All there is about it is, that on the 1st day of January, 1876, they didn't have the \$14,850, but had it on the third or fourth of January? A. Between the third and fourteenth.

Q. You can't state but the \$14,000 was added after it was received by the bank? A. The pass-book of the Germania Savings Bank with the Germania shows the deposits went in later in the month.

Q. But when the entry was made below \$11,000 you can't state? A. No, sir; I can't tell that, of course.

Q. Did you see any thing improper when the bank actually got this money three days afterwards in their making some entry of it? A. I think it was improper to make an entry—

Q. [Interrupting.] To make *some* entry? A. Oh, it was necessary to make some entry, of course.

Q. That is the only entry of the amount ? A. In the aggregate.

Q. And all that you would claim is that the entry is in the wrong place ? A. Yes, sir.

By Mr. TRACY :

Q. Is it in there twice ? A. No, sir ; it was put in the wrong place.

By Mr. McGUIRE :

Q. Counsel claims it should have been put in another place than it is ? A. I don't know what the counsel claims.

By Mr. CHAPMAN :

Q. There may have been some security left there in the Germania Bank to the amount of \$14,850, and those securities taken out when the cash was put into replace it ? A. No, sir ; I inquired of Scheitmuller, the cashier, upon that subject when I went to him to get an explanation of this entry, having the pass-book in my hand, and finding a deposit made of 5,000 and odd dollars, and I asked him how it was that he had not credit for this ; he said he had never received such a deposit and on continuing the investigation I found entries showing that that sum was made up of certain payments made between the third and fourteenth of January.

By Mr. McGUIRE :

Q. It came in between the third and fourteenth ? A. Yes, sir.

By Mr. TRACY :

Q. Have you examined to see the amount deposited by depositors and the amount drawn out by depositors, in each successive month, at any period before the concern closed ? A. Yes, sir ; there was a chronic run (it might be described in that way) from 1875 ; from October the run was, with the exception of perhaps two months ; the drafts always exceeded the deposits.

Q. Just give the figures as to the amount deposited and the amount drawn ? A. I have made a memorandum of it.

Q. Read from it ? A. Jan. 1875, drafts exceeded deposits \$7,759.70 ; Feb. 1875, deposits exceeded drafts \$5,346.64 ; March, drafts exceeded deposits \$3,742.70 ; April, deposits exceeded drafts \$4,010.59 ; May, drafts exceeded deposits \$11,479.46 ; June, deposits exceeded drafts \$69,064.33 ; July, deposits exceeded drafts \$10,081.09 ; August, drafts exceeded deposits \$3,857.74 ; September, deposits exceeded drafts \$5,302.59 ; October (when the run began) the drafts exceeded the deposits, \$40,368.47 ; November, the drafts exceeded the deposits

\$42,654.17; December, drafts exceeded deposits \$47,517.62; for the year, the drafts exceeded the deposits \$125,574.62.

Q. Give the following period? A. The run continued in the month of January, 1876; the drafts exceeded the deposits \$59,689.90; in February, \$2,592.24; March, \$13,846.88; April, \$1,327.15; May, \$174.99; June, \$3,956.01; July, \$8,740.29; August, \$847.42; September, \$12,517.39; October, \$64,709.34; November, \$38,548.30; December, \$14,298.53, making a total excess of drafts over deposits for the year of \$221,248.44; the two months of this year the drafts exceeded the deposits by \$74,474.91; putting those three together (two years and two months) it amounts to \$420,964.97.

By Senator COLE:

Q. The drafts exceeded the deposits? A. Yes, sir.

By Mr. TRACY:

Q. During all that time were there deposits? A. Oh, yes, sir; of course the deposits, even when the run was the largest, or near to that, were continued; take the month of July, 1875, and the deposits were \$145,000; in May, when the drafts exceeded the deposits, the deposits were \$111,473.20.

Q. There was no month but there were deposits? A. No, sir; there were deposits down to February, 1877; on the twenty-sixth of February there were deposits made.

Q. State the deposits made in January and February, 1877? A. January, \$15,217.16, February, \$3,913.16.

Q. Have you made any dividend among the depositors? A. No, sir; I have not.

Q. Have you arrived at a point where you can express a reasonable judgment about what dividend you can make to depositors? A. I can express an opinion, but it is only an opinion.

Q. We will take it as an opinion?

Mr. McGUIRE — Quite speculative.

A. If the mortgages given by the trustees are held to be the property of the bank (which I think they will be — my counsel so advises me), then there will be assets enough in bonds, and including the Southfield bonds, and rating the real estate down to hard pan, to pay fifty cents on the dollar; if the Southfield bonds turn out well and the real estate should do better than the appraisers say it will, of course the dividend would be increased in proportion; the Southfield bonds alone would increase the dividend to depositors very largely; the Southfield bonds, with the accumulated interest, would amount to over twenty per cent of the whole sum due depositors, but I have omitted these for the reason that I cannot tell how the suit will finally be determined.

By Senator CcLE:

Q. Then the best outlook of it would be seventy or eighty cents on the dollar? A. At the very outside I think from sixty to seventy per cent.

By Mr. CHAPMAN:

Q. What is there in regard to these minutes being partially in English and partially in German? A. At the request of Mr. Ellis they were copied in English, and they started to make a translation of all the minutes which had previously been kept in German; the president gave orders that they should begin making their translation.

By Senator ST. JOHN:

Q. Did any of the trustees or officers who were depositors, while parties were drawing out money, draw out all their money? A. Most of the trustees were depositors; I say "most," a large number of them, and almost to a man they had drawn out their money.

Q. Before the failure of the bank? A. Yes, sir.

By Mr. CHAPMAN:

Q. How long before? A. Some of them in February.

Q. That was during the very month they were reported to the Attorney-General? A. Yes, sir.

By Senator GERARD:

Q. Did you ever see the bank at Morrisania? A. Yes, sir; I am there three days in the week.

Q. When was it constructed? A. In 1875; 1875 and 1876.

Q. How far was it constructed January 1, 1876? A. I think it was finished in January, 1876.

Q. How far in 1875, when the examination was had? A. I don't know, sir; I knew nothing of the bank or the town at that time.

Q. I see it is rated at \$46,000; what has been the result of the sale of that? A. It has not been sold, sir.

Q. Have you any knowledge of the value of real estate in Morrisania? A. No, sir; I have not, personally; I called on residents there and some outsiders, and the opinion I give as to the value is not my own opinion; it is the opinion of these outside parties.

Q. Have you made any effort to sell it? A. No, sir, I have not.

Q. At public or private sale? A. No, sir, neither; I should perhaps state that in the cost of \$46,495.11 there is a sum of thirteen and odd thousand dollars that was added in December 1875; \$10,000 as a part of the deficiency which then existed and the balance (three

thousand and some hundred dollars) remaining to the credit of the "safe and fixtures account;" \$10,000 was added on the books in the report, of course.

Q. What was the \$10,000 for? A. It was increased valuation, which, it was said, it would stand.

Q. What the trustees made? A. Yes, sir.

Q. Had real estate appreciated or depreciated in 1875-6? A. I can't tell you that; I should not think it had increased in value.

Q. Do you know what it cost? A. Yes, sir; the cost proper of the building and amount was \$32,656.59; the additions made on account of fixtures and the \$10,000 I have spoken of, \$13,858.52; the lot cost \$3,800.

By Mr. MCGUIRE :

Q. Give a detailed statement of the bonds that came into your hands as receiver? A. I take the bonds and mortgages that were held by the bank already in my hands; the bonds and mortgages which were pledged as collateral for a portion of these loans; the parties who held the collaterals have since accounted to me for such sums as they collected, and in both cases have returned to me, in one I think \$375,000, and in the other five hundred and odd dollars; the bonds and mortgages in all is \$129,450.

Q. Wait a moment, there; what amount was pledged as collateral? A. Thirty-five thousand dollars.

Q. Have you any means of stating when the pledge was made? A. In February, 1877.

Q. You add those two amounts together and see what they amount to; the amount of bonds which came into your hands, and those held as collateral amount to what? A. They have accounted to me for them since; and the whole amount is \$129,450.

Q. That includes that which were held as collateral, and everything? A. Yes, sir.

Q. What other assets came into your hands? A. The bond of \$1,000 of the Morrisania Steamboat Company.

Q. What value did you put upon them? A. One thousand dollars; also bond of the town of Eastchester, \$12,500; the value I put upon it is the same; town of Pelham and Pelham dock bonds, \$9,250, which I have taken at their face value; also the town of Mamaroneck, \$1,000, that is at par; town of New Rochelle, \$5,000, at par; Morrisania, at five per cent premium, \$3,000; one of those bonds comes due next year; town of Southfield, \$41,000.

Q. What do the town bonds amount to which you have called off? A. Twenty-six thousand two hundred and fifty dollars, at par.

Q. Have you a statement there, that you can readily refer to, show-

ing what town bonds that bank had on the 1st day of January, 1877 ?
 A. I think they had just the same, or thereabouts ; there is no change from those I mentioned.

Q. And those Southfield bonds (\$41,000) ? A. That makes \$67,250.

Q. The same as the bank reported to the department on the 1st of January, 1877 ? A. Yes, sir.

Q. I am testing whether this was a fabricated report or not ? A. In both cases correct.

Q. What other assets came into your hands when you took possession as receiver ? A. Thirty-two thousand dollars of the consolidated bonds of the New Jersey Midland Railroad ; \$90,500 of the equipment bonds of the New York and Oswego Midland Railroad, \$25,000 which have not come into my physical possession, but they are in the hands now of the adjusters of the western extension of the New York and Oswego Midland railroad.

Q. Those two amounted to \$115,000 ? A. Yes, sir.

Q. The same as the bank reported ? A. Yes ; precisely.

Q. Go on with the remainder of the assets ? A. "The banking-house and lot," a small house in West Farms ; there were three (3) pieces of real estate.

Q. Look at the book there and see what cash the bank had on deposit in the bank or trust companies on the 1st of January, 1877 ; I will read it from their report and see if it corresponds. "Cash on deposit in banks or trust companies, \$11,075.80." A. That is correct.

Q. Cash on hand how much ? A. Two thousand, five hundred and ninety-six dollars and sixty cents.

Q. It is the same as it is here in the report ? A. Yes, sir.

Q. I suppose you have compared the assets coming into your hands with the assets reported by the bank to the department on the 1st of January, 1877, and found that the bank had all of the assets which they reported ? A. Yes, sir ; I have compared them and found them correct.

Q. Then the only difference between you and the bank was in putting values upon some of the securities or property ? A. Yes, sir ; that is all.

Q. This report shows that you had a surplus of \$12,091.20 ; if I understand you correctly, by your computation there is a deficiency of about \$84,000 ? A. Yes, sir ; I would make it about that.

Q. Allow me to call your attention to values, to see where the difference is between you and the bank officers ; what value did you put upon the Southfield bonds ? A. Fifty cents on the dollar.

Q. The bank put those in at par ? A. Yes, sir ; \$20,500 difference between us there.

Q. Now, if this decision you have spoken of be sustained by the Court of Appeals, then the bank is right in putting them in at par ?
 A. Yes, sir ; they would be worth more than par, because there would be the accumulating interest for several years ; there is four years interest due upon them now.

Q. So the value of those bonds depends upon the contingency of the courts ? A. Yes, sir ; altogether.

Q. The Morrisania steamboat bonds you put the same as the bank ?
 A. Yes, sir.

Q. The New York Midland Consolidated Railroad bonds, \$32,000, par value ; the bank report their value at \$6,400 ? A. One dollar a bond I put them at ; that was the price they were selling at last year.

Q. Put the aggregate amount ? A. Three hundred and twenty dollars.

Q. So there is \$6,100 difference between you and the bank on that ?
 A. Six thousand and eighty dollars.

Q. Take the New York and Oswego Midland bonds at \$115,500 par value, which the bank report at \$14,576 ; what is your value ? A. I reported them at \$2,655 ; the difference is \$11,921.

Q. That embraces all the stocks or bonds ? A. Yes, sir.

Q. Now, the banking-house, what is the difference between your estimate of its value and the estimate put by the bank upon it to the department ? A. Twenty-six thousand four hundred and ninety-five dollars and eleven cents.

Q. Other real estate, \$87,003.37 ? A. My estimated value is \$6,500.

Q. Cash on deposit in trust companies, and cash on hand you and the bank agree upon ? A. Yes, sir.

Q. All other assets not including the above, viz. : \$2,596.60 ; what do you say as to that ? A. That's cash on hand ; interest due upon the various bonds, etc. ; we agree as to the amount any way.

Q. These deficiencies in value that you have put upon the Southfield bonds and the New Jersey Midland and the New York and Oswego Midland and the banking-house, and the other piece of real estate constitutes the difference between your estimate of value and the values reported to the Bank Department ? A. Yes, sir, including the item of interest ; they claim accrued interest under all heads ; at that time interest accrued and due to them — there are three items there, which added together make eighteen thousand and odd dollars ; I credit them with the interest which was due and collectible, leaving out the interest on the Southfield bonds, and also interest of some mortgages of the trustees which they had voted should not be paid.

Q. You have mentioned all the items of difference between you and the bank? A. Yes, sir.

Q. I understood you to say that their values you put upon them there might be a difference of opinion in regard to them? A. As to real estate, yes, sir; but as to stocks and bonds, no.

Q. Take the Southfield bonds? A. I will except that; the other bonds, however, are well known.

Q. Are the New Jersey Midland first bonds? A. No, sir; third mortgage bonds.

Q. And so with the New York and Oswego? A. They are third mortgage bonds; the other \$25,000 are on the western extension.

Q. These bonds were as collateral on a loan of money? A. Yes, sir; these came in exchange for other collateral — those that I have read to you.

Q. Did the charter of this bank have the "available fund" clause in? A. I don't know.

Q. Did you put the same value upon this property in your computation of 1876 as in 1875 and 1877; did you keep the same values? A. In 1875—

Q. [Interrupting.] There was a deficiency of some \$70,000 you mentioned? A. Yes, sir; I preserved the same down to the time I took possession.

Q. Then what makes the increased \$14,000 difference if you had the same securities and the same values in 1876 that you had in 1877; how does this \$14,000 difference occur? A. It comes from adding the amount which is claimed by the trustees upon mortgages which they insist upon being returned and also the interest which was accumulating all the time.

Q. Can you state from any memorandum you have what the amount due depositors was on the 1st of January, 1877? A. I can give it to you according to the general ledger of the bank, \$299,237.79.

Q. That is more than reported to the bank department? A. Yes, sir.

Q. That was on the 1st of January, 1877, and now it was along the seventh of July when you took possession as the receiver? A. I estimated it as \$230,000.

Q. As due depositors? A. Yes, sir; there is a difference between that balance sheet that was taken off and the general ledger, of nearly \$5,000; the sum appearing upon the general ledger is \$225,000 and upwards; a few hundred dollars difference, but I put it at \$230,000, which I am satisfied will cover it.

Q. There was a decrease in the liabilities due depositors of over

\$70,000 ? A. Yes, sir ; they drew out 74,000 and odd dollars, in excess of what they put in.

Q. But the assets remained the same it seems ? A. Oh, no ; the money went out ; they raised money on notes and raised money on call and pledged the securities.

Q. The bank reports that its bonds and mortgages are \$172,750 ?

A. The amount that came into my hands was \$129,450.

Q. That only makes it about \$40,000 difference ? A. Yes, sir ; but the liabilities on the other hand were increased ; there was \$39,000 owing on call, and when I took possession there was \$54,000 owing.

Q. You only make fifty-five or \$56,000 by adding the two together ; you are largely then below the decrease in the liabilities ? A. I will show you how it is ; the mortgages are reduced \$43,300 ; on the 1st of January, 1877, they had to their credit \$11,075.80, and in the bank \$2,596.60 ; they had \$13,000 in cash ; when I took possession I got \$351.95 ; the difference of course, was paid out in the meantime.

Q. Now, you add to that the \$15,000 loan ? A. Yes, sir ; that makes a difference of \$71,620.

Q. And that is just about the difference in the liabilities due depositors ? A. Yes, sir.

Q. Showing that these sums of money must necessarily have been paid over to the depositor and not "pocketed" by the officers of the bank ? A. Yes, sir ; they got none of it.

By Mr. CHAPMAN :

Q. While the examination has been going on I have been looking over some of the entries in these trustees' books ; you have examined these, I suppose ? A. Yes, sir.

Q. Well, now, it appears that from the time of the examination made in 1875 by Mr. Reid, that the trustees were at work in one way and another in getting up this deficiency, doesn't it ? A. Yes, sir.

Q. There are various allusions along down through these meetings to the efforts they were making ? A. Yes, sir.

Q. They first started off on the theory that they could make up the deficiency by means of trustees' bonds ? They subsequently ascertained from the department, after these trustees bonds' had been made up, that the department would not accept that way of making up the deficiency ? A. The minutes show that.

Q. Then they went to work and put in this cash and these mortgages and these bonds to which you have referred ? A. Yes, sir.

Q. It appears also from the minutes of the trustees, doesn't it, that

Mr. Reid was there during this time? A. Yes, sir; he was there December 9, 1875, to inquire about the condition of the bank.

Q. I read from the minutes of the ninth of December: "The president reports that Mr. Reid was here to get information in regard to the standing of the bank;" at a meeting of September ninth, I find this entry: "The president (Mr. Held) states that he has corresponded with the Bank Department, and that every trustee has to sign a bond until the Midland bonds are sold." Do you recollect that? A. Yes, sir.

Q. At the meeting of October fourteenth, I find an entry: "Mr. Bragman remarked, in regard to the trustee bonds, that these bonds were not made out properly;" do you recollect that? A. Yes, sir.

Q. On the date of December 9, 1875, there is this entry in regard to Mr. Reid having been there to get information in regard to the standing of the bank? A. Yes, sir.

Q. On December 29, 1875, I find this entry: "President Held reports that the communication from the Superintendent of the Bank Department was received, and states that the deficiency which exists in the assets of the bank must at once be made good, or the superintendent would act in our case as the law provides, and also requested Mr. Hall to see the superintendent at Albany, and get information what is best to be done in our case. Mr. Hall was present and stated that he was consulted." I will ask whether the minutes of the board of trustees do not indicate a determined purpose on the part of the trustees to keep up this institution? A. Yes, sir.

Q. Do you not find on the minutes of the trustees, after the completion of the bank building, a record of their having met there and having a grand jollification? A. Yes, sir; I know it took place, although I was not there; I know they spent \$300 and odd for wines.

Q. Don't the minutes say that these persons put in their cash and mortgages towards making up this deficiency from time to time? A. Yes, sir; beginning in December.

Q. Prior to that they had been at work at that trustees' bond upon a mistaken theory? A. Yes, sir.

Q. This was a German bank, wasn't it—I mean the trustees and directors, and all? A. Chiefly German.

Q. A sort of national institution, as they treated it? A. I don't think it could be called that, because I find that thirty-three and one-third per cent of the depositors seemed to me to be English speaking people—Irish, Scotch, American, and all that.

Q. The trustees of this bank—did you find any English-speaking trustees among them, or among the directors? A. All Germans.

Q. Does it not apper from the minutes of the board of trustees that they took a personal pride in the institution?

Mr. TRACY — The minutes will show in regard to that, and I object to the parol introduction of the evidence.

Mr. CHAPMAN — Is there any doubt the fact?

Mr. TRACY — I don't raise a doubt upon questions that are not here; my objections are upon questions that are here.

Mr. CHAPMAN — I am inclined to think your objection is correct.

Q. Do you know the men who were engaged in this bank as trustees and managers of it? A. None previous to my going there; I have met some of them since.

Q. They are among some of the richest and strongest men?

Mr. TRACY — I object to that as a leading question.

Mr. CHAPMAN — Have we got to this point that the counsel for the State objects to a question as being leading?

Mr. TRACY — I do object when it is a "stump speech." I object to the question as immaterial and leading.

Mr. CHAPMAN — I will take the ruling of the Chair upon it.

The PRESIDENT — Will the stenographer read the question?

The stenographer then read the question, and the president said: It is perhaps, leading, but I think the question may be answered.

Q. How is that? A. Those of them that I have met I should think were among the first men of Morrisania, and I am glad of it because I hope to get a great deal of money out of them.

Q. Are not the depositors so much better off by reason of the bonds and cash and stocks having been paid in under the requisition of Mr. Ellis than they would have been if not been put in? A. The depositors who are not there now?

Q. Yes, sir? A. No, sir; I don't think they are; \$420,000 has been taken out of the bank —

Q. [Interrupting.] Those are depositors who have withdrawn? A. Yes, sir, of course; but if that money was in the bank now the depositors would be —

Q. [Interrupting.] Suppose instead of this \$60,000 or \$70,000, or whatever it is, of assets having been put into the bank before it was put into the hands of a receiver, had been put into the hands of a receiver before this was put into the bank, would there have been as much to have divided among the depositors? A. The percentage would have been as much as it is likely to be now from the assets themselves, because they (the assets) would be distributed over three times the amount of the money that is now in the bank.

Q. A large proportion of the depositors have got their pay in full? A. Yes, sir; and they have derived benefit.

Q. Some of those who will remain derive benefit from it? A.

That is a question I should hesitate to answer in the affirmative; if I gave an answer, it would be slightly in the negative; if there were \$100,000 there, and the assets had went to pay the \$420,000 drawn out, it would, as a matter of course, relieve and reduce the percentage of loss.

Q. Have you had sufficient experience as a receiver to be able to tell me whether a perfectly solvent institution, if put into the hands of a receiver and settled by a receiver, would pay more than seventy-five cents on a dollar? A. I think any solvent concern ought to pay that.

Q. Through the hands of a receiver? A. Yes, sir.

Q. Have you had any experience in assignments in bankruptcy proceedings and things of that kind? A. I have had experience as a merchant where I didn't get any thing in a good many cases; I have spent hundreds and in some cases thousands of dollars and got nothing back.

Re-direct-examination:

By Mr. TRACY:

Q. In connection with this inquiry, I would like to ask you how many new depositors appear on the books of the bank after Mr. Reid's examination of April 24, 1875? A. That is a question I could not answer without a great deal of research and labor; in this bank, unlike most other savings institutions, they have but one deposit book, and that embraces both new, or first or second deposits paid in their institution; they have a first deposit book, and by looking at that you can tell the number of new accounts opened between any given periods; without a great deal of labor, it would be impossible for me to answer that question.

Q. Can you give some approach to the number of new depositors in that time? A. No, sir; I would rather not hazard an opinion.

Q. Can you give the amount that came into the bank in that time from new depositors? A. Yes, sir; I can give that; from the 1st of May, 1875, to February 26, 1877, the amount of deposits \$1,646,907.10.

Q. Have you gone through the books to ascertain the cost of the bank precisely? A. Yes, sir; I made a statement of it.

Q. In your statement of the total cost, did you admit these items which they put down — "fixtures, \$646.75?" A. Yes, sir.

Q. Did you admit the item of "furniture, \$45?" A. Yes, sir.

Q. "Signs, \$55?" A. Yes, sir.

Q. "Carpets, \$114.02?" A. Yes, sir.

Q. Total, \$860.70? A. Yes, sir; it is a little over \$800.

Q. If those articles were taken out, what would the cost stand at?

A. Thirty-one thousand eight hundred and fifty dollars and eighty-two cents.

Q. Does this paper which you have in your hand contain a list of the items which you find have been carried to the cost of the bank—

A. [Interrupting.] It contains every item charged to that account which appears upon the bank-books.

Q. After the footing of thirty-two thousand and odd dollars read the items which are charged to the cost of the bank? A. Insurance, \$103; lunch, \$75; wines, \$174.84; moving safe, \$60; furniture account—December 31, 1876, \$3,358.33; cash account, covering deficiency which existed December 30, 1875, \$10,000; Charles Fritz (no explanation on books), \$12; taxes, \$55.35.

By Senator HARRIS :

Q. How much was it for wines? A. One hundred and seventy-four dollars and eighty-four cents.

Q. Read from the minutes of April 28, 1875, right in that connection?

Senator STARBUCK—I move that the session of this day be extended until 7 o'clock.

The PRESIDENT put the question and the motion was carried.

A. “Special meeting, April 28, 1875, held for the inauguration and opening of the new bank building of the German Savings Bank of Morrisania.

“The president welcomed the assembled directors in a few introductory remarks, and requested Mr. Malignon, as one of the oldest directors of the bank, to address the meeting and give a history of the bank.

“Mr. Malignon hereupon gives a full history of the bank from its organization to the present time. He congratulates the directors upon the very favorable condition of the business affairs of the bank. After a few flattering allusions to the services of the present president, Mr. Held, he proposed, as first toast: ‘The welfare and prosperity of the bank.’ He was followed by Mr. Hall, who, in English, describes the activity of the bank, and prophesies a glorious future for the same. He concludes with a toast to the health of the directors of the bank. The next speaker is Mr. Sigel, who in English, expresses his opinion that a harmonious action of the elements of the population of Morrisania is necessary to a full development of the bank. Mr. Malignon, referring to a part of the remarks made by the last speaker, is of the opinion that not a single savings bank in New York can exist without the further aid of German depositors. He mentions with praise the services rendered by the building committee and the many and difficult labors performed by the same. His toast is, “The health of the Building Committee.

"Dr. Zeuchner gives a thorough description of the origin of the bank and the many unselfish and sacrificing services rendered by the unpaid officers, and offers as toast, "The unpaid and paid officers of the bank." The next toast was also by Dr. Zeuschner, 'To the Press.' Mr. Malignon in response as a former offers a toast to the and the German press. Mr. Theil followed with a toast to Mr. Malignon as father of the bank. Mr. Malignon hopes to live long enough to celebrate the twenty-fifth anniversary of the bank, and toasts Mr. Freedmann as secretary *pro tem.* of the bank.

"Mr. Zuegner hopes that the German language and German ideas will always be preserved, and offers with energetic emphasis the toast, 'The old members of the bank.'

"Dr Zeuschner offers the toast, 'The younger members of the bank.'

"Further toasts were proposed by Mr. Brugman, 'To the Bank'; Mr. Malignon, 'To the Ladies.' Mr. Freutel, with a poetical exclamation, offers a toast to 'Womanhood.'

By Mr. CHAPMAN:

Q. That is the cost of the building alone aside from the lot? A. Yes, sir.

Q. The furniture account is 3,300 and odd dollars? A. Yes, sir; I put that in the cost.

Q. This "jollification" was after Mr. Reid made his examination in April? A. Yes, sir.

Q. He would not have been very apt to have discovered it? A. No, sir.

Q. It was also written in German? A. Yes, sir; this translation was not made until subsequently.

By Senator WAGSTAFF:

Q. What was the cost of this jollification? A. Lunch, \$75; wines, \$174.84; total, \$249.84.

Mr. McGUIRE — I would suggest, Mr. President, whether the State should be put to the expense of printing this patriotic exuberance of feeling of the Germans of Morrisania over the completion of their building. As long as we are trying to save expense I make this suggestion.

The PRESIDENT — I will submit the question in regard to striking out the matter in regard to the "jollification."

Senator GERARD — I move to amend by inserting the fact that there was a meeting of a "cordial character, in regard to the finishing of the construction of the bank building at that time."

Senator WAGSTAFF — I move to strike out all except the figures in regard to it.

Senator MCCARTHY — I vote for the printing of this matter in order that the people of the State may know that we are discovering things that are very interesting in regard to savings banks.

The PRESIDENT then submitted the question as to striking out in regard to the jollification, and the motion to strike out was lost.

By Mr. CHAPMAN :

Q. [Showing same.] Is that the letter of December 25, 1875, signed by Superintendent Ellis ? A. Yes, sir.

Mr. CHAPMAN — I desire this to be marked as an exhibit, and it reads :

“STATE OF NEW YORK :

“BANK DEPARTMENT, }
“ALBANY, December 25, 1875. }

“JACOB HELD, Esq., *President German Savings Bank, Morrisania* :

“DEAR SIR—It appears by the examiners’ report that there is a deficiency of assets in your institution to which my attention has been officially called. It is the settled policy of the department to close up all savings institutions which have not an amount of clear assets with which to meet their liabilities. Unless your deficiency is promptly made good I shall feel constrained to act in your case.

“Very truly yours,
“D. C. ELLIS.”

Senator WOODIN then moved that the Senate take a recess to Friday, August 3, 1877, at 10 A. M., which was carried, and the Senate accordingly adjourned to such time.

SARATOGA SPRINGS, *August 3, 1877* — 10 A. M.

The Senate met pursuant to adjournment, a quorum present.

George W. Reid, a witness on behalf of the State, being recalled, testified as following :

Examined by Mr. TRACY :

Q. Did you make an examination of the German Savings Bank of Morrisania in April, 1875 ? A. Yes, sir.

Q. What do you say of its being a correct and faithful examination ? A. It was a correct report.

Q. And a correct report? A. Yes, sir; as correct as I could make it.

Mr. TRACY — Mr. President, we will now offer some evidence in relation to the New York State Loan and Trust Company.

Henry L. Lamb, a witness on behalf of the State, being recalled, further testified.

Examined by Mr. TRACY:

Q. Produce the examination of February 5, 1875?

(Paper produced by witness.)

Mr. TRACY — Senators will find this in the testimony mainly on pages 323 and 324. I am not sure but it is all there. This note from Reid, Aldrich and Payne, accompanying the original report, is official, abstracted in the book, not fully stated. I will therefore read it and put it in evidence.

“BANK DEPARTMENT, }
“STATE OF NEW YORK. }

“Pursuant to the authority conferred and the duty imposed upon the Superintendent of the Banking Department, by chapter 324 of the Laws of 1874, I do hereby appoint Geo. W. Reid, Wm. F. Aldrich and W.S. Paine to examine into the condition, working and affairs generally, of the New York State Loan and Trust Company and report thereon to me, in detail, as soon as practicable.

“Given under my hand and official seal at Albany, this 12th day of January, 1875.

“D. C. ELLIS,
“*Superintendent.*”

“Hon. D. C. ELLIS, *Supt. Bk. Dept.* :

“SIR — The undersigned, appointed to examine into the condition, working, etc., of the New York State Loan and Trust Company, report:

“This company, like many others, in striving after excessive interest, have met with losses far greater than the anticipated profit. After making deduction for probable losses on loans and bills purchased, and counting the investments at as near market value as near as could be ascertained, the deficiency in capital will be \$268,419.14, making the stock worth about seventy-three per cent.

“About 600 shares of the stock have not been paid for in full, but loans have been made on it from two-thirds to three-fourths of the par value. There is a deposit of \$500,000 made by an assignee in bankruptcy, at three per cent on thirty days' notice, with the understanding that it

was to be loaned to a certain firm at five per cent on \$600,000 first-class business paper at three days' notice.

“ With the severe experience the directors have had they appear to be fully determined in future to do a legitimate business.

“ Respectfully submitted,
GEO. W. REID,
W. F. ALDRICH,
WILLIS S. PAINE.

“ Examined Feb'y 5th and 6th by G. W. Reid, W. F. Aldrich and W. S. Paine.”

ASSETS AND LIABILITIES of the New York Loan and Trust Company upon the 5th day of February, 1875, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.

	Rate of interest	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
U. S. bonds, 10-40.....	5	\$200,000 00	117	\$234,000 00	\$370,250 00
Chesapeake and Ohio Railroad first mortgage.....	6	125,000 00	45	56,250 00	
New Orleans, Mobile and Texas R. R. first mortgage.....	8	200,000 00	20	40,000 00	
Milwaukie, Green Bay and Manatawa first mortgage.....	7	80,000 00	50	40,000 00	
Loans temporary.....	939,570 73
Bills purchased.....	....	.....	....	.....
Cash in vault.....	....	.....	....	.....
Cash in Fourth National Bank.....	4	.....	....	\$3,207 76
Cash in Continental National Bank.....	3	176,432 47	379,792 45
Cash in Nassau Bank.....	....	.....	....	48,500 00
Cash in German American Bank.....	....	.....	....	10,000 00
Cash in Central National Bank.....	....	.....	....	73 39
Furniture and fixtures.....	24 88	238,238 50
Interest accrued on loans.....	....	.....	....	.....
Interest accrued on banks.....	\$7,560 00	1,500 00
Commissions accrued.....	....	.....	....	1,000 00
Deficiency.....	8,560 00
	
	15,000 00
	268,419 14
	\$2,221,330 81

ASSETS AND LIABILITIES — (Continued).

LIABILITIES.	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Capital.....	\$100,000 00	
Depositors.....	1,213,875 81	
Dividend due.....	80 00	
Interest accrued on deposits.....	2,000 00	
Taxes accrued.....	1,500 00	
Rent accrued.....	1,875 00	
Rebate on bills purchased.....	2,000 00	
					\$2,221,330 81

Q. Was there an examination after that of that institution ; was there any examination made subsequent to that ? A. No, sir ; not to my knowledge.

Q. Was this institution closed by the intervention of the department or superintendent ? A. No, sir.

Examined by Mr. CHAPMAN :

Q. That examination merely shows an impairment of capital ? A. Yes, sir.

Q. As I understand it, all the depositors were paid in full ?

Mr. TRACY — Wait a moment, I will show all about that.

By Mr. TRACY :

Q. Is there any thing there responsive to the counsel's question ?

A. Yes, sir ; there is one other paper in relation to this institution that seems to be pertinent ; it is filed " Commission New York State Loan and Trust Company," filed January 26, 1876 ; it is a commission in the usual form, signed by Mr. Ellis, issued the 18th day of December, 1875, and has this indorsement by Mr. Reid on the inside of it in pencil, " Winding up ; all deposits paid."

Mr. TRACY — I put that in evidence.

"BANK DEPARTMENT, }
"STATE OF NEW YORK. }

" Pursuant to the provisions of chapter 324 of the Laws of 1874, I do hereby appoint George W. Reid and Willis S. Paine to examine into the condition, working and affairs generally of the New York State Loan and Trust Company of New York city, and report thereon to me in detail as soon as practicable.

" Given under my hand and official seal at Albany, this 18th day of December, 1875.

" D. C. ELLIS,
" Superintendent."

Q. That date, " winding up, all deposits paid," in whose handwriting ? A. That indorsement is in Mr. Reid's handwriting.

Q. There was no examination returned with the commission ? A. Not to my knowledge ; I do not think there was.

Q. Have you the commission-book before you there ? A. Yes, sir.

Q. Read. A. [Witness reads.] " New York State Loan and Trust Company, examined by George W. Reid, William F. Aldrich and W. S. Payne, January 18th and subsequent days, 1875 —

Mr. TRACY — That is the paper already put in ; the next record is : " New York State Loan and Trust Company, examined by George W. Reid and Willis S. Payne ; commission made December 18, 1875 ;

winding up, all deposits paid ; see commission ;" I would like to put the whole of the entry in.

Q. Are the words " winding up, all deposits paid, see commission," under the head of " examination when made ?" A. Yes, sir.

Mr. CHAPMAN — Mr. President, we reserve the right to cross-examine any of these witnesses at any time.

Mr. TRACY — Mr. President, I never heard of that before. That is a very remarkable announcement.

The PRESIDENT — It is not necessary, Mr. Tracy, I think, to decide that now.

Henry J. Hubbard, a witness called on behalf of the State, being duly sworn, testified :

Examined by Mr. TRACY :

Q. You were employed in the United States Loan and Trust Company ? A. Yes, sir.

Q. For how long and from what time ? A. From its organization to its close.

Q. Its charter seems to have been granted by the Legislature in 1870 ; when did it commence business ? A. The first installment of capital was paid in in February, 1871 ; the last installment in June 1871.

Q. You have seen this examination which was returned by Reid, Aldrich and the other gentleman ? A. I have.

Q. What do you say about that being a just and fair examination and report ? A. I think it was a fair report.

Q. Did you remain there until the institution discontinued business ? A. Yes, sir.

Q. Then were you taken into the employment of the receiver ? A. No, sir.

Q. You closed your connection then ? A. Yes, sir.

Q. State whether that institution was closed voluntarily or by compulsion ? A. Voluntarily.

Q. Did they have a receiver appointed voluntarily ? A. Yes, sir.

Q. Did the institution make a report to the department in July, 1875 ? A. Yes, sir.

Q. I would like to see that ? A. [Witness produces report.] That is the report.

Q. What is its date ? A. July, 1875.

Mr. TRACY — It is a report showing the condition of the New York State Loan and Trust Company on the 30th of June, 1875.

Report showing the condition of the New York State Loan and Trust Company, on the 30th day of June, 1875, at the close of business on that day, made to the Superintendent of the Banking Department, as required by chapter 324, of the Laws of 1874.

RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed	
2. Stock investments, as per Schedule B, hereto annexed.....	\$562,639 87
3. Amount loaned on collaterals, as per Schedule C, hereto annexed.....	1,084,589 90
4. Amount loaned on personal securities, including bills purchased.....	277,776 65
5. Overdrafts.....	
6. Due from directors or trustees of the institution...	
7. Due from banks.....	
8. Due from brokers.....	
9. Real estate.....	
10. Cash on deposit in banks or other moneyed institutions, as per Schedule D hereto annexed.....	300,202 85
11. Cash on hand not deposited.....	2,196 63
12. Amount of assets not included under either of the above heads, the items of which are fully set forth in Schedule E, hereto annexed.....	1,500 00
	<hr/>
	\$2,228,897 90
	<hr/>

LIABILITIES.

1. Capital stock subscribed.....	\$1,000,000
Capital stock paid in in cash.....	\$1,000,000 00
2. Surplus fund.....	
3. Undivided profits (net amount, after crediting all gains and charging all expenses and losses).....	64,538 12
4. Deposits in trust	
5. General deposits by individuals, associations and corporations, payable on demand.....	1,164,359 78
6. Other liabilities, not included under either of the above heads, viz.: Interest accrued on deposits, \$; taxes accrued, \$;	
Excess of assets over liabilities, not included in surplus fund or profits.....	\$2,228,897 90
	<hr/>
	\$2,228,897 10
	<hr/>

SUPPLEMENTARY.

1. Amount of debts guaranteed and liability thereon, at the date of this report	
2. Total amount of interest, commissions and profits of every description received during the last six months.	\$39,623 74
3. Amount of interest paid to and credited depositors during the same period	20,103 95
4. Amount of expenses of the institution during the same period	16,493 73
5. Amount of dividends on capital stock declared during the last six months.	
When payable.	
6. Amount of deposits made by order of court.	
7. Number of deposits on which interest is allowed at this date, sixty-seven; total amount of such deposits.	884,560 00
Rate of interest on same, three, four and five per cent.	
8. Amount of bonds and mortgages purchased.	

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Henry A. Smythe, president, and H. J. Hubbard, secretary, of the New York State Loan and Trust Company, located and doing business at No. 50 Wall street, New York city, being duly and severally sworn, each for himself says, that the foregoing report and the schedules accompanying the same are, in each and every particular, a true statement of the condition of the said institution at the close of business on the last business day of June, 1875.

H. A. SMYTHE,
President.
H. J. HUBBARD,
Secretary.

Severally subscribed and sworn by }
both deponents, the 20th day of }
July, 1875, before me.

DANIEL J. HINES,
Notary Public, N. Y. Co. (55).

NOTE.—The cost of securities to be carried into the column of resources, and the difference between cost and market value to be entered upon "Schedule E."

SCHEDULE B — STOCK INVESTMENTS.

161 Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States stocks and interest-bearing treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stocks or bonds of villages. 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of interest.	Cost.	Par value.	Estimated market value.
United States 10 40s.....	5	\$222,646 54	\$200,000 00	\$236,000 00
New Orleans, Mobile and Texas R. R. 1st mortgage bonds.....	8	200,000 00	200,000 00	25,000 00
New Orleans, Mobile and Texas R. R. income bonds.....	8		200,000 00	.....
Chesapeake and Ohio R. R. 1st mortgage bonds.....	6		125,000 00	50,000 00
Milwaukee, Green Bay and Manitowoc R. R. 1st bonds.....	7	57,193 33	80,000 00	60,000 00
		\$562,639 87	.....	\$371,000 00

SCHEDULE C.

LOANS ON COLLATERAL SECURITIES.

Name of security or collateral.	Estimated value of collateral.	Amount loaned thereon.	At what rate of interest, per cent.
Railroad stocks and bonds,	\$435,500 00	\$377,146 77	7
Bills receivable.....	789,300 00	620,500 00	5 and 7
Miscellaneous securities...	95,900 00	86,935 13	7
	<u>\$1,320,700 00</u>	<u>\$1,084,581 90</u>	

Five hundred thousand dollars at five per cent interest ; balance at seven per cent interest.

SCHEDULE D.

CASH DEPOSITED IN BANKS OR OTHER MONEYED INSTITUTIONS.

Name of depository.	Location.	Amount on deposit.	At what rate of interest.
Fourth National Bank....	New York....	\$149,582 85	3 per ct.
Continental Nat'l Bank...	New York....	150,620 00	4 per ct.

SCHEDULE E.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS.

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....
New York State stocks.....
Stocks of other States
Bonds of counties, cities and towns of this State.....
Other stocks and bonds.....
Real estate.....
Totals
Difference.....	*

LOANS, DEPOSITS, INVESTMENTS OR ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED, VIZ.:

Accrued interest.....	.....
Interest due and not collected.....	.....
Premium on gold interest due and accrued.....	.....
Furniture and fixtures....	\$1,500 00

*If costs exceed market value, the difference should be entered under the head "Other Liabilities" in the report.

Cross-examination of *Henry J. Hubbard* :

By Mr. McGUIRE :

Q. Mr. Hubbard, what was your business in this bank ? A. I was secretary.

Q. Did you make out this report of June 30, 1875, as the secretary ? A. I think it was made by the book-keeper under my supervision.

Q. You swore to it, didn't you ? A. Yes, sir.

Q. Then you must have had some knowledge of the matters to which you were swearing, I suppose ? A. I did.

Q. Did you, as the secretary, furnish the facts and data upon which this report is based ? A. Yes, sir.

Q. And when you swore to it you had no doubt of its truth and accuracy, had you ? A. No, sir.

Q. You say you have looked over this report of Mr. Reid's, and that Mr. Reid's report is correct ; when did you look it over ? A. At the time the examination was made.

Q. At the time the examination was made, do you recollect the fact of Reid's making the examination ; of your looking at the result and concurring with him that the result which he arrived at was correct ? A. Yes, sir.

Q. Then I would like to have you explain to the Senate, if you please, how, when Mr. Reid, in March, 1875, makes a deficiency of \$208,419.14, that you, in the following June, made a surplus of \$64,000 ; just explain that ; if you, in March, examined that report and swore it was correct ; and did you swear to a report in June, making nearly \$300,000 difference ; explain your position, if you please ? A. One is Mr. Reid's valuation of the assets, and the other is the valuation placed upon it, as it appeared upon the books.

Q. As it appeared by the books of the bank, I suppose ? A. Yes, sir.

Q. Then, if Mr. Reid's examination and the valuation was correct, as you have testified, I want you to explain how you could, in three months afterward swear it was \$300,000 different ? A. If you will take the balance of the report, you will find that it is consistent ; you have simply taken the report ; that simply refers to the schedule.

Q. You take the report and make it consistent, that is what I was asking you about ; I have Mr. Reid's report here, Mr. Hubbard ; I will call your attention to it, and you can compare it with your report of June 30, 1875, if you please ; Mr. Reid reports \$200,000 of 10-40 United States bonds, and their market value, \$234,000 ; how have you got it in the report of June thirtieth ; look at the 10-40 United

States bonds ? A. Two hundred and thirty-six thousand dollars they are valued at.

Q. Depreciated then, somewhat from March to June ? A. Yes, sir.

Q. The rate by Mr. Reid is 117 ; \$200,000, at 117 would make \$234,000 ? A. It is 118 here, which makes \$236,000.

Q. Look and see if there are any Chesapeake and Ohio first mortgage bonds ? A. One hundred and twenty-five thousand of them.

Q. What rate, market value ; if you haven't the rate give the market value ? A. They are estimated at \$50,000.

Q. Mr. Reid put them at \$56,250 ; now I come to the New Orleans and Texas Railroad first mortgage bonds ? A. They are valued at \$25,000.

Q. Mr. Reid put them at \$40,000 ; Milwaukee, Green Bay, and some other mortgage bonds, \$80,000 ; what did the bank put those at ? A. Sixty thousand dollars.

Q. Mr. Reid has them at \$40,000 ; \$20,000 in excess ? A. Yes, sir.

Q. Your temporary loans, what did they amount to ? A. One million and eighty-four thousand five hundred and eighty-one dollars and ninety cents.

Q. They had increased from March until June, I suppose ? A. Yes, sir.

Q. You know that to be the fact ? A. Yes, sir.

Q. Bills purchased ? A. Two hundred and seventy-seven thousand seven hundred and seventy-six.

Q. Cash in vault ; how much did you report ? A. Two thousand one hundred and ninety-six dollars.

Q. Three thousand two hundred and seven the examiner has ; cash in the Fourth National Bank, how much ? A. One hundred and forty-nine thousand five hundred and eighty-two.

Q. The examiner has \$176,000 ; didn't he get the figures at that bank ? A. Yes, sir.

Q. Your drafts exceeded your deposits in that bank ? A. Yes, sir.

Q. How much cash in the Continental Bank ? A. One hundred and fifty thousand six hundred and twenty dollars.

Q. Mr. Reid has \$148,000, cash in Nassau Bank ? A. Nothing.

Q. He has it \$10,000, cash in German Bank ? A. Nothing.

Q. Cash in Central National Bank ? A. Nothing.

Q. He has it \$2,788 ; these accounts of these respective banks, in March 4, 1875, were correct, were they ? A. Yes, sir.

Q. And were correct on the 30th day of June ? A. Yes, sir.

Q. In other words you had the amount of cash deposits in these various banks at the making of that report ? A. Yes, sir.

Q. State the value of the furniture and fixtures, as reported by the bank to the department ? A. One thousand five hundred dollars.

Q. The same as the examiner ? A. Yes, sir.

Q. Interest accrued on loan ? A. That does not appear ; no estimate in the report.

Q. You have not that as an asset in the report ; the interest accrued on loans ? A. No, sir.

Q. Is there any such asset as that ? A. No, sir.

Q. Commissions accrued ? A. Nothing reported.

Q. Will you please state the total amount of your resources, as appearing upon your books, to the department of June 30, 1875 ? A. It appears in the report as to the par value, not as to the estimated value ; the schedules reported the estimated value of securities.

Q. That is what I want to get at ; you have not an accrued amount of the market value ? A. The schedules are separate pieces of paper.

Q. I want to show whether the accrued amount of all these assets at their market value was in excess of or below the amount reported by the examiner in March ? A. Two millions twenty-seven thousand dollars was their total resources, at the estimated value, at the time.

Q. The aggregate a little less than Reid's ; I want to get at the liabilities ; state the liabilities that you reported to the department ? A. Due depositors, \$1,164,359.78.

Q. That is a little less than it was in the preceding month — Mr. Reid reports \$2,213,875.81 — what is the next item of liabilities ? A. Capital stock.

Q. I won't call your attention to the capital stock just yet ; what other items of liabilities have you in your report ? A. Nominal surplus, \$54,000.

Q. Mr. Reid has seven or eight items here ; is there any dividend ? A. No, sir ; those have been paid.

Q. Those had been paid at the time of your report ? A. Yes, sir.

Q. Rebate on the bills purchased \$2,000 ; what is there of that ? A. Nothing of that.

Q. Take at that time the total amount of resources as you would now compute it ? A. At the value placed upon them.

Q. Yes, sir ? A. At their market value, \$2,027,000.

Q. And your liabilities, independent of capital ? A. One million one hundred and sixty-four thousand dollars.

Q. Your United States bonds, at \$200,000, were good available securities at any time ? A. Yes, sir.

Q. You have Chesapeake and Ohio Railroad bonds, \$125,000 ; at the time of the making of that report, down as late as January, 1876, was that a convertible security ? A. Yes, sir.

Q. At the amount that you returned it to the department, \$36,000 ? A. It was at that time.

Q. I am speaking of that time ? A. Yes, sir.

Q. I see it is at the rate of forty-five cents ; did that rate continue down to the time that the bank closed business ? A. No, sir.

Q. The bank closed business, and what were those bonds sold for ?

A. I think they were sold for thirty-six cents.

Q. A depreciation of nine per cent on the \$125,000 ? A. Yes, sir.

Q. Take the New Orleans, Mobile and Texas bonds, \$200,000 ; Mr. Reid, in March, reports those bonds as worth twenty, you report them in June, as worthless, don't you ? A. Yes, sir.

Q. And the rate was what as you reported in June ? A. Twelve and a half cents.

Q. Did that rate continue down to January, 1876 ? A. It could hardly be said there was a market rate for them ; that was the estimate placed upon them by the holder.

Q. They were not readily convertible at any price ? A. No, sir.

Q. In other words, no market for them in the city of New York ? A. No market.

Q. The Milwaukee bonds, \$80,000, estimated by Reid at 50 per cent ; how did that security continue from that time down to January 18, 1876 ? A. In the same condition of the New Orleans, Mobile and Texas bonds ; they had no market value.

Q. On those two securities, then, you reported one at \$15,000 and the other at \$60,000 ? A. Yes, sir.

Q. Making \$75,000 ; now, there was \$75,000 of resources over a million that was not readily convertible ? A. Yes, sir.

Q. Now, have you any other item of your resources, which you referred to the bank, aside from these two, the New Orleans and Mobile and Green Bay, that were not readily convertible for the amount which you returned ? A. I cannot say.

Q. Your temporary loans, were they good, bad or indifferent ? A. Some of them were good.

Q. Some not ? A. Some not.

Q. And you lost something on them ? A. Yes, sir.

Q. Were your bills purchased all good ? A. No, sir.

Q. The cash you reported was, of course, all good ? A. Yes, sir.

Q. Can you tell us what portion of your temporary loans were good or bad ? A. I know there was one loan of half a million that was good.

Q. And the other of \$490,000, nearly half a million, was bad ? A. No, sir.

Q. A portion of that was good ? A. A portion of it.

Q. The same rule applied to your bills purchased ? A. Yes, sir.

Q. Then, from your resources, with the uncontrovertibility of the two classes of bonds to which I have called your attention, and with

any losses that the bank may have sustained upon these temporary loans or purchased bills, its convertible assets were sufficient to pay all of its liabilities, exclusive of capital? A. Yes, sir.

Q. And to leave a surplus? A. Yes, sir.

Q. You had after paying all the liabilities, exclusive of capital, still have, a surplus to pay a percentage of the capital? A. Something; yes, sir.

Q. Then all this simply intends or indicates is that the capital of the bank was impaired — that is, the stockholders were losing their capital that they put in there? A. Yes, sir.

Q. That is all that indicates? A. That is all.

Q. The depositors of the bank, those that had liabilities against the bank at the time they went into liquidation were perfectly secure, were they not? A. Yes, sir; not only were secured, but were, in fact, paid; we had no liabilities, except to stockholders.

Q. All paid out of the resources? A. Yes, sir.

Henry F. Spaulding, a witness called on behalf of the State, being duly sworn, testified as follows:

Examined by Mr. TRACY:

Q. Are you the receiver of the New York State Loan and Trust Company? A. I am.

Q. When were you appointed? A. January 28, 1876.

Q. You are the first receiver that has been appointed? A. Yes, sir.

Q. Without asking you any particulars about it, will you state what the result of your examination into the affairs of this company is as to the capital, and the loss on its capital, and its condition; and do it as briefly as you can; first, state how much its capital was? A. The capital was \$1,000,000.

Q. All paid in? A. Certified in the books of records and recorded that it is all paid in.

Q. All the debt was that certified to, to be all paid in? A. That I can hardly state without looking over the book.

Q. You have the certificate? A. Here it is, a certified copy dated December 18, 1872.

Q. Read it? [Witness reads:] “The New York State Loan and Trust Company hereby makes, executes and causes to be recorded the following certificate: That the New York State Loan and Trust Company was incorporated, and is transacting business under and in pursuance of an act of the Legislature of the State of New York, passed May 6, 1870, entitled ‘An act to incorporate the New York State Loan and Trust Company.’ Second, The whole amount subscribed

to the capital stock of said company is established in section second of such act, and is fixed and limited by said company, to wit: the sum of \$1,000,000 which has been paid in. Attested by Henry J. Hubbard, notary public, F. N. Lawrence, secretary."

Q. You were appointed when? A. Twenty-eighth of January, 1876.

Q. Will you state what was the condition of the assets and the liabilities of the bank at its close, when it came into your hands? A. There is a statement handed in by the secretary or bookkeeper, February 1, 1876; I was appointed January twenty-eighth.

THE ASSETS.

Furniture and fixtures.....	\$1,500 00
Profit and loss	231,102 79
Expense account.....	578 88
Investments.....	257,193 33
Discounted bills	114,562 60
Loan	185,201 86
Over drafts.....	6,373 88
Cash	80,988 56

Making a total of.....	\$810,700 00
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Liability of capital stock, \$1,000,000, less 1,893 shares owned by the company; that was the nominal condition when it came into my hands.

Q. As you proceed to adjust this thing and to bring it into shape, after the payment of the debts of the concern, so far as you know them to be valid, state how much you know to be left? A. There was no claim against the company except one law suit of the Black River Insurance Company; it came into my hands without the company owing any thing.

Q. What has become of that lawsuit? A. It is before the Court of Appeals now.

Q. How large a sum did it involve? A. About \$30,000.

Q. How much is the money value of all their assets? A. It is impossible for anybody to tell; very nearly every thing in my hands is in the hands of the lawyers and in suit; some of it is in the United States court, some in the Court of Appeals and some in the lower courts.

Q. The claims of the company are resisted and defended by parties? A. They are in defaulted notes past due and other claims.

Q. How much have you really got out of it in cash? A. I claim

a little over \$30,000 in each, but that, by order of the court, is held to indemnify two bondsmen in the Court of Appeals suit.

Q. For the same amount? Yes, sir; for a similar sum.

Q. You have got to go to the Court of Appeals? A. Yes, sir; I got an order of the court to lay aside this money to indemnify bondsmen.

Q. So that all the cash that you have got is in peril of that lawsuit; what more is there there that you can speak of with certainty, that will produce any cash to stockholders? A. I think they will ultimately be able to realize ten or fifteen per cent.

By Senator McCARTHY:

Q. Among the liabilities is put down \$10,000; explain that? A. The profit and loss, in making up the nominal balance, was \$231,102.69.

Q. Would that be among the assets? A. It is in the assets.

Q. What kind of an asset is it? A. It shows a deficiency; that is the way to keep books; it is a nominal asset of profit and loss account.

Q. A nominal asset? the profit and loss at that time was not an asset.

Mr. TRACY—Of course not, unless there was something in profit and loss that was good.

Q. State how much you think you may reasonably expect to realize out of all the assets? A. Ultimately I think there might be ten or fifteen per cent for the stockholders; that is as near as I can estimate it; the directors voluntarily wound up the institution and surrendered its charter after paying the depositors; they put it into my hands to collect it for the stockholders.

Senator PRINCE—Are there assets enough to pay that claim if it should be adjudicated against the company? A. I have the money on hand by order of the court to pay that.

Senator COLE—I would like to correct myself, if I am wrong; has this bank any stockholders? A. They had stockholders, of course.

Mr. McGUIRE—I was going to show by the stock-book who the stockholders were.

The Witness—I have not the stock-book here.

Q. Have you the stock-book here of the stockholders? A. No, sir.

By Mr. McGUIRE:

Q. Haven't you any books showing the stockholders? A. There may be such a book.

Q. Not here ? A. No, sir.

Q. Have you ever examined to see about how many stockholders there were ? A. No, sir ; probably the secretary would be able to answer that question.

Q. Mr. Hubbard ? A. Yes, sir.

Q. About all these stockholders, whoever they were, lived in the city of New York ? A. A majority of them ; and they were all intelligent business men there.

Q. Most of them were men on the street ? A. Most of them were respectable citizens as there were in New York ; I don't know what you mean by "on the street."

Q. I mean, doing business as brokers or something of that kind ? A. There may have been one or two brokers, but they were bankers and merchants.

Q. Most of the stockholders were brokers or merchants ? A. Business men.

Q. These business men have conducted their business in such a way as to pay every man in full that has done business with them ; that is so, is it not ? A. Yes, sir ; none suffer, except stockholders.

Q. The only thing there is about the whole matter is that these business men have conducted their business and sustained losses so they cannot have their capital paid in full ? A. I presume that is the up-shot of the matter.

Q. Do you know why the bank, if they did not owe anybody except their stockholders, was thrown into the hands of a receiver ?

A. Probably put into the hands of a receiver as the most convenient way of winding up a concern that surrendered its charter, and to take five years to liquidate its assets.

Q. It was, then, a matter of convenience to the stockholders to speedily wind up a business that they wished to quit ? A. I take it that was why a receiver was appointed.

Q. Answering no public good or subserving no public end ?

Mr. TRACY—He is asking now about the motives of other gentlemen. The witness said he presumed it was to wind it up by a receiver for the benefit of the stockholders. I object to the question.

The PRESIDENT—Does the counsel for the respondent insist upon the question.

Mr. McGUIRE—I do not care about it. It occurred to the counsel for the respondent that when the great State of New York would bring one of its officers here upon accusation of improper conduct in the management of this bank, that the State itself ought not to object to proof on the part of the respondent, although it may not be technically within the rule of evidence to show that every depositor was saved, and that

a mere insolvency was a mere matter of convenience among the stockholders; and although it may be liable to technical objection, it strikes me that my learned friend representing the State under the circumstances ought not to object.

Mr. TRACY—Mr. President, It will be borne in mind that the counsel for the State expressly proved—distinctly proved—that all the debts were paid except the deposit debt of \$30,000, and the cash was put up to that amount.

Mr. McGUIRE—I am not tenacious about it.

Mr. TRACY—The Governor of the State of New York has the recognition of capitalists who put their money into this sort of institutions. It is not merely for the poor depositors of savings banks but for stockholders in all these institutions that the law was provided, and it is in that view that the evidence is offered.

The PRESIDENT—The Chair is of the opinion that the question, and the discussion which has arisen upon it, are both very suitable to a final argument of the case.

Mr. McGUIRE I will wait.

Q. It may not be very important, but as reference has been made to it, will you state what this suit is that is now in the Court of Appeals? A. There was a banking firm, Paddock & Co., of Watertown, who had dealings with the New York State Loan and Trust Company; the Black River Insurance Company had its capital impaired, and the stockholders gave their notes to make the capital good, and put them into the hands of Paddock & Co. to raise money on; Paddock & Co. had them discounted by the New York State Loan and Trust Company, and now the Black River Insurance Company sues the Trust Company for discounting these bills of Paddock & Co., saying that they were their property; that is the case.

Q. That is, the Black River Insurance Company claim that Paddock & Co. had no right to divert these notes for their own individual purposes? A. Yes, sir.

Q. And the Insurance company so far has succeeded in the litigation? A. They succeeded in the local court, for they never allow any money to go out of the county in the western part of the State.

Q. The company succeeded at the Circuit, which has been affirmed at the General Term? A. Yes, sir.

Q. You, as receiver of this bank, have taken the case to the Court of Appeals? A. I thought it my duty to do so.

Q. That involves, altogether, \$30,000? A. In that neighborhood.

Q. That is the only positive claim against the bank? A. I don't know of any other one.

Q. You have deposited money in court under the order of the court, to meet the exigency of the decision? A. I hold it for the

trust company or receiver, by order of the court, to pay the security for that.

Q. You mentioned some litigation on some of these assets, discounted bills and loans? A. Yes, sir.

Q. Most of these bills and notes were defended by parties that made them, I suppose? A. A good many of those bills receivable were made by parties who were in trouble from the panic of 1873.

Q. They were unable to pay, and litigated? A. Yes, sir; many of them to get time—that is all.

Mr. TRACY—When we were giving evidence in relation to the Peoples' Savings Bank of the city of New York, one paper was missing. It was the complaint which could not be found; it has been found and has arrived here this morning, and I would like to put it in evidence.

The PRESIDENT—Call the witness.

John H. Roberts, a witness on behalf of the State, being duly sworn, testified as follows :

Examined by Mr. TRACY :

Q. Where do you reside? A. New York.

Q. What is your occupation? A. Recording clerk in the county clerk's office, in New York city.

Q. Have you a paper in your hand from the clerk's office, in the case of the People of the State of New York against the People's Savings Bank? A. I have.

Q. Produce it. [Witness produces paper.]

Q. Is this it? A. Yes, sir.

Mr. TRACY—Mr. President, I offer the paper in evidence, and it reads as follows :

SUPREME COURT—ALBANY COUNTY.

THE PEOPLE OF THE STATE OF NEW YORK *against* THE PEOPLE'S SAVINGS BANK OF CITY OF NEW YORK.

The above-named plaintiffs, by Daniel Pratt, their Attorney-General, complain of the defendant, and allege :

That the defendant is a savings bank corporation duly organized under and by virtue of the laws of this State. That said defendant has, for several years last passed, carried on the business of a savings bank in the city of New York. That said defendant is now wholly insolvent and unable to pay its debts, and that the liabilities of said

corporation, arising from the deposits of money therein, are much greater than the value of the assets of said corporation.

That the Superintendent of the Banking Department has made the following communication to the Attorney-General in pursuance of the provisions of chapter 371 of the laws of 1875, viz. :

“ STATE OF NEW YORK :

BANK DEPARTMENT, }
ALBANY, November 11, 1875. }

HON. DANIEL PRATT, *Attorney-General* :

SIR.—In pursuance of section 44 of chapter 371, Laws of 1875, I hereby respectfully call your attention to the condition of the People's Savings Bank' of the city of New York.

From the facts officially furnished to me by Geo. W. Reid, an examiner, duly appointed by me to examine into the condition of said savings bank, I find that on the 10th day of November, 1875, the total liabilities of the bank were \$200,131.79, and the total assets were 157,351.83, leaving a deficiency of \$42,779.96.

I deem it utterly unsafe for this bank longer to continue its business, and I, therefore, recommend that you take the necessary legal steps to close up its affairs.

Very respectfully.

D. C. ELLIS,
Superintendent.”

Wherefore, the plaintiffs demand judgment : First. That the said corporation, the defendant above named, be dissolved. Second. That said corporation, its officers and agents, be restrained and enjoined, from exercising any of its corporate rights, privileges or franchises, and from collecting or receiving any debts or demands, and from paying out, or in any manner transferring or delivering to any person any of the moneys, property, or effects of the said corporation.

Third. That a receiver of the property and the effects of the said corporation be appointed pursuant to the provisions of the Revised Statutes and laws of this State, with all the powers and authority conferred upon receivers in such cases, and that the plaintiffs have such other or further relief as to the court may seem just.

DANIEL PRATT,
Attorney-General.

CITY AND COUNTY OF ALBANY, ss. :

De Witt C. Ellis being duly sworn says, that he is the Superintendent of the Banking Department of New York ; that he has received

the foregoing complaint and knows the contents thereof, and that the same is true to defendant's own knowledge.

D. C. ELLIS.

Sworn this day before me, }
19th day of Nov., 1875. }

E. A. WERNER,
Commissioner of Deeds, Albany, N. Y.

S. W. Swaney a witness in behalf of the State, being recalled, further testified as follows :

Examined by Mr. TRACY :

Q. Is the paper now before you the original complaint and verification in the case of the Peoples' Savings Bank. A. Yes, sir,

Q. In the copy of Mr. Ellis letter therein contained, have figures been changed or not? A. I should say they had, sir.

Q. Changed by erasures? A. Yes, sir; the liabilities have been changed; the assets have been changed, and the deficiency has been changed, I should say.

Q. Turn over to the verification at the end, state whether that has undergone two verifications? A. I should think it had; yes, sir.

Q. Before whom was the first? A. I cannot say; I should think it was Mr. Isaac Smith.

Q. Can you make out the date of the verification? A. No, sir.

Q. The alteration in the letter you refer to is the alteration in the letter as copied in the complaint? A. Yes, sir.

Q. Do these alterations correspond with the alteration in the original letter which you saw here a few days ago? A. Yes, sir; I think it does.

Q. Do you know in whose handwriting the figures are? A. I do not know.

Q. Are they the same handwriting as in the original letter? A. I could not swear to that.

Cross-examination of *S. W. Swaney* :

By Mr. CHAPMAN :

Q. In whose handwriting is the complaint? A. In the handwriting of the message in the Attorney-General's office.

Q. Can you state what the figures were which were erased in this copied letter? A. No, sir, I cannot.

Q. Can you tell why the words "except as to the matters therein stated on information and belief" were erased? A. I have an impression about it and that is all.

Q. Are there any allegations in the complaint on information and belief? A. I think not; no, sir; I think it was for the purpose of obtaining an injunction order from Judge Learned, and it was stricken out.

Q. So as to stop the bank doing business as soon as possible? A. No, sir; Judge Learned did not grant the injunction; we wished to have it positive, so that Judge Learned would grant the injunction; in the order to show cause the injunction was stricken out; Judge Learned refused to grant an injunction.

Q. Even in the showing that you made, Judge Learned refused to grant the injunction? A. Yes, sir.

Q. Did you make two applications to Judge Learned or one? A. Mr. Fairchild saw Judge Learned, I believe.

Q. Were two applications made to Judge Learned or one? A. Only one; I took the papers to Judge Learned at General Term and he struck that injunction out; he would not grant it.

Q. Why did he strike it out? A. He is rather timid about those things; he is afraid.

Q. About stopping a corporation by injunction?

Mr. TRACY — I have several reasons for which I object.

The PRESIDENT — Does the counsel insist upon objecting to the question?

Mr. CHAPMAN — No, sir; not if it is to be tried on technicalities.

Q. The fact is that Judge Learned refused to grant an injunction to stop this bank doing business, although the papers shown to him showed a deficiency of over \$42,000? A. Yes, sir.

Mr. TRACY — It don't show it absolutely.

Mr. CHAPMAN — The paper will show for itself.

Q. Was there any appearance for the People's Savings Bank on preliminary order? A. I think not.

Q. Have you the Attorney-General's book of record here? A. Yes, sir.

Q. Have you it here? A. It is down to the hotel; I did not bring it up this morning.

Q. You can't tell how much, or what the record is, in regard to this case? A. I hardly think there is any appearance for the bank.

Q. Can you tell what is written in the record-book of the Attorney-General's office in relation to this case? A. Yes, sir.

Q. Will you get that book? A. Yes, sir.

Q. I wish you would?

WITNESS — I think there was no appearance.

Mr. CHAPMAN — I want the book. There is no objection to bringing it?

WITNESS — No, sir.

Q. Can you explain in regard to this change of figures; there has been considerable talk about it? A. I tried to explain it the other day, but I think I am in a good deal of doubt in regard to my explanation about it.

Q. You think you are in doubt about your explanation the other day? A. Yes, sir; that was my recollection of the transactions, but as it looks, I hardly think I was right.

Q. What is your explanation now? A. I don't know what explanation to make; I can't remember; that change in the verification I supposed I took in the original complaint and it was changed there, and since there have been two verifications of the complaint, I do not have any recollection of it whatever.

Q. Is there any thing strange in your mind in this change of figures?

Mr. TRACY — That is objectionable.

Mr. CHAPMAN — I ask that question.

The PRESIDENT — The question is not competent.

Mr. TRACY — I withdraw the objection.

Q. How is that? A. I don't hardly understand what you mean by "strange."

Q. Is there any thing suspicious about it in regard to Mr. Ellis? A. Nothing in my mind.

Q. I wish you would bring that record? A. I will do so.

Mr. TRACY — In the meantime I offer some evidence in relation to the Security Savings Bank. Senators will find on page 331, of the testimony, the title "Security Savings Bank," it is a missprint there; that is another institution; there is no evidence about this bank in the book.

Isaac Smith, a witness on behalf of the State, being recalled, further testified as follows:

Examined by Mr. TRACY:

Q. Please give us the report of this bank filed January 15, 1875. [Report produced by witness.]

Mr. TRACY — I offer this report in evidence; the Security Savings Bank, January 1, 1875.

Mr. McGUIRE — One is the Security Bank and the other the Security Savings Bank.

Mr. TRACY — Yes, sir.

Mr. McGUIRE — The testimony in the book don't relate to the Savings Bank at all.

Mr. TRACY — No, sir.

By Mr. McGUIRE:

Q. Is there any thing in the charges of the Governor, or Mallon, or Mack, about this bank?

Mr. TRACY—Yes, sir ; there is no evidence upon the case in the book ; that evidence there belongs to the Security Bank, but not to the Security Savings Bank.

The PRESIDENT—Does the counsel for the State say this is embraced in the charges ?

Mr. TRACY—Yes, sir ; I refer to page 17.

Mr. CHAPMAN—Mr. President, it seems to me that we ought, representing the defendant, to have a ruling upon the admission of testimony in regard to this bank. I will not take up any time in discussing the question ; I will simply bring before the Senate the question, and let the Senate dispose of it. We have now the case of a bank which was not alluded to by the Governor in either of his messages, directly or indirectly. There is no specific charge.

The PRESIDENT—The Chair understood the learned counsel to say that it is embraced in the charge of the Governor. There should be no question of fact here.

Mr. CHAPMAN—Mr. President, I said that I wished to make an objection here, so as to have a ruling by the Senate on the question as to whether they would permit the testimony to be taken in relation to this bank. It is different from any case we have had before the Senate, or I would not raise the objection.

We now have under consideration, or it is proposed to have it under consideration, a bank which is not mentioned in either of the messages of the Governor, directly or indirectly. It is proposed we shall have under consideration a bank concerning which no specific charges are made in either of the documents connected with the messages of the Governor or either of them. This bank is only mentioned as being one of the banks which suffered losses ; that is the only allusion that is made to it.

Now, there are some eleven banks concerning which Mr. Mack makes special charges. There are some four or five additional banks concerning which Mr. Mack merely alleges that the depositors suffered losses, and the question is now whether the Senate proposes to go outside of the banks concerning which special charges were made. If they do, of course that is entirely within their province ; but it seemed to me that it was right for us that we should enter an objection and let the objection go upon the record, so that there would be a ruling by the Senate upon that question. It seemed to me it was due the respondent.

Mr. TRACY—Mr. President, to show you that this is one of the charges sent in, I have only to read the passage on page 17. Every one of the articles in that line touches the subject. You will see by

looking at page 46 of the document that that contains the charges annexed to the Governor's message.

Mr. CHAPMAN—That is the same as page 17.

Mr. TRACY—It is at page 46 of the Senate's proceedings, I think Senator Harris—Of the journal.

Mr. TRACY—Perhaps the journal.

The PRESIDENT—That is the same as Document No. 1.

Mr. TRACY—Yes, sir. I will read it.

Charges against De Witt C. Ellis, Superintendent of the Banking Department of the State of New York, of a general character, as to his neglect of duty as such Superintendent, and especially relating to the Bond Street Savings Bank, People's Savings Bank, Trades' Savings Bank, Abingdon Square Savings Bank, German Savings Bank of the town of Morrisania, the Bank of Lansingburgh, the New York State Loan and Trust Company, the Loaners' Bank, and the Security Bank.

GENERAL NEGLECT AND INEFFICIENCY OF DE WITT C. ELLIS AS THE SUPERINTENDENT OF THE BANKING DEPARTMENT OF THE STATE OF NEW YORK.

I. That De Witt C. Ellis, as Superintendent of the Banking Department, has so willfully neglected his duties as to have permitted something like fourteen or more savings banks in the city of New York to become insolvent, without in any manner interfering to restrain the continuance in business of said insolvent banks, except in one case, that of the Mechanics and Traders' Savings Bank of the city of New York (which had long been known to him in his official capacity as being both insolvent and badly managed).

II. That he has permitted other irregularities to exist in savings banks which will appear on examination of his reports to the Legislature and comparing them with the records of his office for more full explanation.

III. That by reason of which neglect the depositors and dealers with said banks have lost large sums of money, the number of these depositors being about 26,000, and each depositor representing on an average five persons depending on these savings, aggregates the enormous number of 130,000 persons who have suffered great mental anxiety, and have been in many cases reduced to great want and even beggary, and fostering a feeling of distrust in the public mind as to the solvency of moneyed institutions.

IV. That by his negligence, incompetency and general inefficiency, he has permitted savings banks, which had no surplus, to expend large amounts of depositors' money in the erection of costly buildings, which are often absurd in style, unfitted for any business purposes and when obliged to be sold, bring but a small portion of the depositors' money back to them.

V. That by his neglect of duty the following named saving banks, deposit bonds and trust companies have failed or suffered great losses with liabilities to depositors and shareholders about as follows:

The President submitted the question to the Senate whether the testimony should be received, and it was decided in the affirmative.

MR. TRACY—I will now read in evidence the following:

SCHEDULE A — BONDS AND MORTGAGES.

No.	County where mortgaged premises are located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
1..	New York.	New York.....	\$1,815 00	\$24,000 00	7 per cent.
5..	Queens.....	Long Island City.....	1,200 00	4,600 00	7 per cent.
6..	Queens.....	Newtown.....	1,000 00	2,500 00	7 per cent.
11..	New York.	New York.....	2,600 00	12,000 00	7 per cent.
12..	New York.	New York.....	5,900 00	30,000 00	7 per cent.
13..	New York.	New York.....	7,000 00	15,000 00	7 per cent.
14..	New York.	New York.....	3,000 00	8,000 00	7 per cent.
16..	Kings.....	Brooklyn.....	3,000 00	10,000 00	7 per cent.
19..	Queens.....	Long Island City.....	1,000 00	3,000 00	7 per cent.
20..	Queens.....	Long Island City.....	1,600 00	3,200 00	7 per cent.
21..	Queens.....	Long Island City.....	1,550 00	3,500 00	7 per cent.
22..	Westchester.	Bedford.....	3,000 00	6,000 00	7 per cent.
23..	Queens.....	Long Island City.....	600 00	4,000 00	7 per cent.
24..	Queens.....	Long Island City.....	3,200 00	7,000 00	7 per cent.
25..	Queens.....	Long Island City.....	750 00	2,500 00	7 per cent.
26..	Westchester.	Tremont.....	1,000 00	2,000 00	7 per cent.
28..	Westchester.	Mt. Vernon.....	4,053 00	9,000 00	7 per cent.
29..	Queens.....	Greenpoint.....	2,000 00	4,500 00	7 per cent.
31..	Queens.....	Newtown, L. I.....	1,000 00	3,300 00	7 per cent.
32..	New York.	New York.....	7,000 00	15,000 00	7 per cent.
33..	Westchester.	Morrisania.....	2,200 00	4,500 00	7 per cent.
35..	Queens.....	Long Island City.....	2,000 00	4,500 00	7 per cent.
36..	Kings.....	Brooklyn.....	2,100 00	5,000 00	7 per cent.
37..	Queens.....	Long Island City.....	1,700 00	4,000 00	7 per cent.

38..	Queens.....	Long Island City.....	1,100 00	3,700 00	7 per cent.
39..	Queens.....	Long Island City.....	3,000 00	6,000 00	7 per cent.
40..	Queens.....	Long Island City.....	4,600 00	10,000 00	7 per cent.
41..	Queens.....	Long Island City.....	6,000 00	12,000 00	7 per cent.
42..	Westchester.....	Fairmouth.....	2,500 00	5,000 00	7 per cent.
44..	New York.....	New York.....	4,500 00	12,500 00	7 per cent.
48..	Kings.....	Brooklyn.....	5,000 00	11,000 00	7 per cent.
52..	New York.....	New York.....	10,000 00	30,000 00	7 per cent.
53..	New York.....	New York.....	7,500 00	15,000 00	7 per cent.
55..	New York.....	New York.....	5,000 00	20,000 00	7 per cent.
56..	New York.....	New York.....	5,000 00	10,000 00	7 per cent.
57..	New York.....	New York.....	5,000 00	12,000 00	7 per cent.
58..	New York.....	New York.....	5,000 00	40,000 00	7 per cent.
59..	New York.....	New York.....	10,500 00	40,000 00	7 per cent.
60..	New York.....	New York.....	8,500 00	25,000 00	7 per cent.
62..	New York.....	New York.....	7,500 00	15,000 00	7 per cent.
63..	New York.....	New York.....	4,800 00	15,000 00	7 per cent.
64..	Queens.....	New York.....	1,500 00	3,000 00	7 per cent.
65..	Queens.....	Long Island City.....	2,000 00	4,500 00	7 per cent.
66..	New York.....	New York.....	8,500 00	18,000 80	7 per cent.
67..	New York.....	New York.....	3,000 00	6,500 00	7 per cent.
68..	Westchester.....	Mt. Vernon.....	2,500 00	8,500 00	7 per cent.
72..	Kings.....	Brooklyn.....	2,500 00	5,000 00	7 per cent.
73..	New York.....	New York.....	4,500 00	10,100 00	7 per cent.
74..	New York.....	New York.....	3,000 00	7,500 00	7 per cent.
75..	Westchester.....	Mt. Vernon.....	4,000 00	10,000 00	7 per cent.
77..	New York.....	New York.....	3,500 00	7,500 00	7 per cent.
78..	Westchester.....	Wakefield.....	1,500 00	4,000 00	7 per cent.
79..	New York.....	New York.....	6,500 00	15,000 00	7 per cent.

SCHEDULE A — BONDS AND MORTGAGES.—(Continued).

No.	County where mortgaged premises are located.	In what city, village or town.	Principal unpaid.	Estimated value of mortgaged premises.	Rate of interest.
80...	New York.....	New York.....	\$5,000 00	\$21,000 00	7 per cent.
82...	New York.....	New York.....	6,000 00	15,000 00	7 per cent.
83...	New York.....	New York.....	10,000 00	25,000 00	7 per cent.
84...	New York.....	New York.....	1,000 00	5,000 00	7 per cent.
85...	Queens.....	Long Island City.....	1,600 00	3,400 00	7 per cent.
86...	Queens.....	Long Island City.....	1,200 00	3,400 00	7 per cent.
87...	Westchester.....	Tremont*.....	8,000 00	16,000 00	7 per cent.
88...	New York.....	New York..	1,000 00	3,000 00	7 per cent.
			\$231,668 00	\$660,700 00	

*Twenty-third Ward, New York City.

SCHEDULE B—STOCK INVESTMENTS.

Enumerate stocks in the following order, and give footings to each class, viz.: 1. United States and interest-bearing Treasury notes or certificates. 2. New York State stocks. 3. Stocks of other States. 4. Stocks or bonds of cities in this State. 5. Stocks or bonds of counties. 6. Stocks or bonds of towns. 7. Stock or bonds of villages. 8. Any other stocks or bonds.

NAME OF STOCK.	Rate of Interest.	Cost.	Par value.	Estimated market value.
Brooklyn park improvement.....	6	\$885 00	\$1,000 00	\$1,000 00
Arcadia, Wayne county, N. Y.	7	37,500 00	40,000 00	40,000 00
Sodus, Wayne county, N. Y.	7	22,500 00	25,000 00	25,000 00
		\$60,885 00	\$66,000 00	\$66,000 00

SCHEDULE C.

PUBLIC STOCKS UPON WHICH MONEY HAS BEEN LOANED.

Name of stock.	Par value.	Amount loaned thereon.	At what rate of interest.
U. S. 5-20 coupon bonds.....	\$3,000 00	\$3,000 00	7
U. S. 5-20 registered bonds ...	100 00	100 00	7
Canal certificate, N. Y. State, No. 559, interest from April 24, 1873.....	36,766 48	36,766 48	6
Town of Greenburgh bond....	2,500 00	2,000 00	7
	<u>\$41,866 48</u>	<u>\$41,866 48</u>	

SCHEDULE D.

STOCKS OF PRIVATE CORPORATIONS UPON WHICH MONEY HAS BEEN
LOANED.

Name of stock.	Par value.	Amount loaned thereon.	At what rate of interest.
Central Pacific R. R. first mort- gage	\$40,000 00	\$25,000 00	7
Dry Dock, East Broadway and Battery R. R. stock.	10,000 00	5,000 00	7
Third Avenue R. R. stock ...	3,400 00	2,500 00	7
Three Toledo, Wabash and W R. R. bonds.....	3,000 00 }	15,000 00	7
N. Y. and Harlem R. R. Stock	15,000 00 }		
Tradesmen's Bank.....	2,600 00	2,600 00	7
Fifth National Bank.....	10,800 00	7,550 00	7
Murray Hill Bank.....	500 00	350 00	7
Natinal Trust Company.....	1,000 00	500 00	7
	<u>\$86,300 00</u>	<u>\$58,500 00</u>	

SCHEDULE E—LOANS ON PERSONAL SECURITIES.

TO WHOM LOANED.	Security or Collateral.	Amount loaned thereon.	At what rate of interest.
W. W. Wild..... Mrs. E. A. Capun..... Chas. H. Payson..... Joseph Kaufman..... Edward C. Brooks..... John J. Brooks & Co..... L. R. Marsh..... Mrs. E. M. Close.....	Bank-book No. 2662, \$2,231.53..... Bank-book No. 8287, 4,861.61..... Bank-book No. 3801, 1,210.62..... Bank-book No. 3351, 437.61..... Bank-book No. 3245, 675.11..... Bank-book No. 1438, 1,521.16..... Bank-book No. 7482, 335.82..... Diamond ring.....	\$1,000 00 3,500 00 600 00 350 00 200 00 1,000 00 300 00 200 00 \$7,150 00	7 7 7 7 7 7 7 7

SCHEDULE F.

CASH DEPOSITED IN BANKS OR TRUST COMPANIES.

Name of Bank or Trust Company.	Location.	Amount on deposit.	At what rate of interest.
First National Bank.....	N. Y. city..	\$104,097 73	4
Murray Hill Bank.....	N. Y. city..	18,436 98	4
Bull's Head Bank.....	N. Y. city..	1,093 57	4
Broadway Bank.....	N. Y. city..	151 30	4
		<u>\$123,779 58</u>	

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS.

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....
New York State stocks.....
Stocks of other States
Bonds of counties, cities and towns of this State.....	\$5,115 00
Other stocks and bonds.....	8,939 57
Real estate.....
Totals	<u>\$14,054 57</u>
Difference*.....	<u>\$14,054 57</u>

Loans, deposits, investments or assets of every description not heretofore enumerated, viz. :†

Accrued interest.....	12,181 66
Saves, furniture, etc.....	3,427 12
Rents due.....	925 80
Claim secured by bonds.....	3,784 48
	<u>\$34,373 63</u>

* If cost exceeds market value the difference should be entered under the head "Other Liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will of course be just to include in this schedule the interest due, though unpaid, on investments.

Report of the Security Savings Bank, an incorporated Institution for Savings, of its condition on the 1st day of January, 1875, made to the Superintendent of the Banking Department, required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$231,668 00
2. Stock investments, as per Schedule B, hereto annexed.....	60,885 00
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	41,866 48
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.....	58,500 00
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	7,150 00
6. Real estate, cost, \$78,460.43 ; market value, \$87,400 ; standing on books at \$87,400, cost.....	78,460 43
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	123,779 58
8. Cash on hand not deposited in bank.....	23,947 82
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed	34,373 63
	<hr/>
	\$660,630 94
	<hr/>

Liabilities.

1. Amount due depositors.....	\$649,600 43
Principal.....	\$634,310 02
Interest credited for the 1st of January, 1875	15,290 41
2. Other liabilities, viz. :.....	
3. Excess of assets over liabilities.....	11,030 51
	<hr/>
	\$660,630 94
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1875.....	3,313
2. Number of accounts opened during the year 1874....	1,099
3. Number of accounts closed during the year 1874....	1,173

4. Number of accounts opened since organization.....	9,016
5. Amount deposited, not including interest credited, during 1874.....	\$595,888 64
6. Amount deposited, including interest credited, for the same period.....	629,375 45
7. Amount withdrawn during the year 1874.....	623,555 59
8. Amount of interest or profits earned * during the year 1874.....	
9. Amount of interest credited to depositors for the same period.....	
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited: July 1, 1874, \$15,534.68 ; January 1, 1875, \$15,290.41. Credited at other periods during the year.....	2,661 72
11. Rate per cent of dividends or interest to depositors during the past year, six per cent.	

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

D. D. Marshall, president, and Wm. N. Banks, secretary, of the Security Savings Bank, an incorporated institution for savings, located and doing business at No. 507 Third avenue, in the city of New York, being duly and severally sworn, each for himself saith, that the foregoing report, and the schedules accompanying the same, are, in all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of January, 1874, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

D. D. F. MARSHALL,
President.

WM. M. BANKS,
Secretary.

Severally subscribed and sworn by }
both deponents, the 14th day of }
January, 1876, before me.

JOHN H. SCIL,
Notary Public (315), New York Co.

* If amount received is reported, strike out " or earned ; " if amount earned is reported, strike out " received or."

Q. Produce the examination made of this bank on the 27th of November, 1875, following that report?

WITNESS—This is it that I hand you.

Q. The commission of the examination bears date October 25, 1875, signed by Mr. Ellis, appointing George W. Reid to examine the Security Savings Bank of New York city; I will read the commission in evidence:

“BANK DEPARTMENT, }
STATE OF NEW YORK. }

Pursuant to the provisions of chapter 371 of the Laws of 1875, I do hereby appoint George W. Reid to examine into the condition, working and affairs generally, of the Security Savings Bank, New York city, and report thereon to me, in detail, as soon as practicable.

Given under my hand and official seal at Albany, this 25th day of October, 1875.

D. C. ELLIS,
Superintendent.”

“Hon. D. C. ELLIS, *Superintendent Bank Department* :

SIR.—The undersigned, appointed to examine into the condition, working, etc., of the Security Savings Bank of New York, reports: From the accompanying list of assets and liabilities, it will be seen that there is a small deficiency of \$890. The banking-house, estimated to be worth \$85,000, has been put in at cost, \$79,562, which also includes safes and fixtures. The other real estate is said to be worth more than cost, \$5,000 having been offered, a few days ago, for the ten acres at Mount Vernon. The loans are all abundantly secured, and the management good.

Respectfully submitted.

GEO. W. REID.

Examined November 27, 1875.”

ASSETS AND LIABILITIES of the Security Savings Bank of New York upon the 27th day of November, 1875, as found upon examination made by the direction and authority of the Superintendent of the Bank Department.

ASSETS.	Rate of interest.	amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	....	.....	\$227,482 27
Call loans.....	7	\$20,000	....	.....	22,700 00
Arcadia town bonds.....	7	25,000	100	\$20,000 00	
Sodus town bonds.....	7	3,000	100	25,000 00	
Caneadea town bonds	7	.....	100	3,000 00	
Banking-house.....	.....	.....	.....	\$85,000 cost	48,000 00
Real estate, 10 acres Mt. Vernon.....	.....	.....	....	.....	79,562 55
Real estate, house and lot in Astoria.....	.....	.....	....	.....	4,654 66
Rent due and accrued.....	.....	.....	....	.....	2,114 02
Cash in safe.....	.....	.....	....	.....	523 00
Cash in Fifth National Bank.....	4	.....	....	4,470 00	
Cash in Murray Hill Bank.....	4	.....	....	13,430 86	
Cash in Bull's Head Bank.....	4	.....	....	4,834 28	
Cash in National Broadway Bank.....	.....	.....	....	921 60	
	.....	.....	..	151 30	
Interest accrued.....	.....	.....	....	.....	23,808 04
Deficiency of assets.....	.....	.....	....	.....	7,886 00
					890 20
					\$417,620 77

LIABILITIES.

Due depositors.....	.....	.....	.....	\$409,820 77
Interest accrued.....	.....	.....	.....	7,800 00
				417,620 77

ANNUAL INCOME from the investments of the Security Savings Bank as they were found upon examination made on the 27th day of November, 1875, and the annual charges thereon at current rates or estimated on the basis of 1875.

INVESTMENTS.	Rate of interest	Amount at par.	Revenue.	Totals.
Bonds and mortgages.....	7	\$227,482 00	\$15,923 74	
Call loans.....	7	22,700 00	1,589 00	
Town bonds.....	7	48,000 00	3,360 00	
Cash in bank.....	4	19,200 00	768 00	
Rent .....	....	.....	2,000 00	\$23,640 74
CHARGES.				
Interest to depositors.....	....	.....	\$19,500 00	
Salaries .....	....	.....	1,500 00	
Internal revenue tax.....	....	.....	450 00	
Other taxes .....	....	.....	750 00	
All other charges.....	....	.....	500 00	
				22,700 00
Excess.....	....	.....	.....	\$940 74

EXAMINATION BLANK—No. 4.

Sundry Items of Assets, the Liabilities, also other Statistics of the Security Savings Bank, as found upon examination made November 27, 1875.

Real estate owned, banking-house.

Location, 507 Third avenue.

Dimensions of ground, twenty by 100.

Dimensions of buildings, twenty-five by sixty.

Cost of ground and building, \$79,562.55.

Estimated market value of real estate, \$85,000.

Amount of cash on hand :

In vault, \$4,470 (to be verified by examiner's count).

In banks or trust companies, viz. (to be verified by certificates of bank officers):

Fifth National Bank.....	\$13,430 86	4 per cent.
Murray Hill Bank.....	4,834 28	4 “
Bull's Head Bank.....	921 60	4 “
National Broadway Bank.....	151 30	

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz. :

On bonds and mortgages.. .. .	\$5,876 00
On stocks (exclusive of those in which interest accrued forms part of the market value, and is so extended),	1,655 00
On call loans.....	285 00
On deposits in bank	70 00
	<hr/>
	\$7,886 00
	<hr/>

What amount of the above is more than three months over due,
\$.

Rents due and collectible or accrued to date, \$523.

Any other properties constituting assets not included above nor in any other lists furnished, viz. :

Real estate at Mount Vernon, ten acres.....	\$4,654 66
Real estate at Astoria, house and lot.....	2, 114 02

Annual rental of real estate owned or leased, at current rates \$2,000.

Rate of interest on call loans, seven per cent.

Rate of interest on deposits in bank, etc., four per cent.

Interest credited January 1, 187 , \$; deposits, less interest, that date, \$.

Interest credited July 1, 1874, \$15,534.68 ; deposits, less interest, that date, \$638,163.96.

Interest credited January 1, 1875, \$15,290.41 ; deposits, less interest that date, \$634,310.02.

Interest credited July 1, 1875, \$14,664.22 ; deposits, less interest, that date, \$637,150.12.

Amount due depositors this date, \$409,820.77.

Estimate of interest accrued to depositors this date, \$7, 800.

Any other debts or liabilities due or accrued this date not included above, viz. :

Miscellaneous facts relating to the condition and conduct of business of the Security Savings Bank, in the city of New York, as found upon examination made by direction of the Superintendent of the Bank Department, November 27, 1875 :

ORGANIZATION.

Charter number of trustees ? Fifteen.

Number of vacancies ? None.

Number constituting quorum ? Seven.

Officers elected or appointed from trustees ? President, vice-president and secretary.

Officers, clerks and other employees, not members of the board ? Two tellers and book-keeper.

Standing or regular committees of the board, their powers and duties ? Finance committee executive committee.

EXPENDITURES.

Salaries, current rate, viz.: Paying teller, \$600 ; receiving teller, \$600 ; book-keeper, \$300 ; total \$1,500.

Other expenses, basis of 1875 : Rent, none ; internal revenue tax, \$450 ; other taxes, \$750 ; furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank-books, fuel, lights and attendance, other expenses, \$500.

CONDUCT OF BUSINESS.

Regular meetings of the board ? Second Saturday each month.

Average attendance 1875 ? Twelve.

Attendance of officers during business hours ? President and secretary

Attendance of trustees ? Occasional.

Application for loans on bond and mortgage, how made ? At the bank.

To whom referred ? Finance committee.

Report on value of property, by whom made ? Appraiser.

To whom? Board.

In what form? Writing.

Are applications for loans on bond and mortgage filed or otherwise preserved? Yes.

Ditto of reports concerning value of property? Yes.

Action by vote or otherwise—by whom necessary before money is advanced on bond and mortgage? Board.

Ditto of stock investments? Board.

Ditto of call loans? Board.

Ditto of deposits in bank? Board.

How or by whom are the companies designated in which insurance, as security for loans on bond and mortgage is effected? Mortgageor.

Is the opinion of your counsel ever taken concerning the legality of investments otherwise than on bond and mortgage? Yes.

Opinion in writing or oral? Oral.

At what period does interest on deposits commence? First of each month.

During what time must a deposit remain to be entitled to interest? One month and to dividend day.

By what form of action is the rate fixed or declared? Board.

Is interest declared or fixed or promised in advance, or only at expiration of interest period? Expiration.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily? Profits.

Who is the responsible officer in charge of the conduct of business during business hours? President and secretary.

Hours during which bank is open? Daily from 10 to 3, and Monday and Saturday evenings from 6 to 8.

Who receive and pay money over the counters? Tellers.

What memoranda or entries made by receiving teller of transactions? Ticket and pass-book.

What ditto by paying teller? Receipt in book and pass-book.

Who receives and compares these with cash at close of business? Secretary.

How often revised and checked and compared by any other officer or committee?

In whose custody or accessible to whom are the securities of the bank kept? President.

How often and by whom examined? Monthly by executive committee.

How is their correctness verified?

At these examinations is the cash actually counted? No.

How is amount of cash deposited in bank ascertained by them? Books.

Reports and statements of total cash received and disbursed, made by whom ?

To whom ? Board.

How often ? Monthly.

In what form ? Writing.

How and by whom verified ?

Ditto of assets and liabilities ? Ditto.

Bonds of officers, etc., viz.: Attorney, \$25,000 ; president, \$10,000 ; secretary and clerks, \$5,000 each.

In whose custody ? Attorney and attorneys with secretary.

Number of open accounts ? Two thousand eight hundred and sixty-four.

Largest single ? Above \$5,700.

Number exceeding \$5,000 ? Two.

Average ? One hundred and forty-seven dollars and eighty-one cents.

Are depositors allowed to draw checks upon their accounts ? None.

By whom must the checks of the institution be signed ? President and secretary, countersigned by teller.

Has any officer or trustee, to your knowledge, or according to your belief, ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution ? No.

Q. On this report coming into the department, did it come into your hands for examination ? A. I do not remember.

Q. Will you produce the next report made by this bank, January 1, 1876 ? A. Yes, sir ; this is it which I produce. [Witness produces report.]

Mr. TRACY—That report reads as follows :

SCHEDULE E—No. 2.

ASSETS OF EVERY DESCRIPTION NOT HERETOFORE ENUMERATED.

Excess of market value of stock investment over cost...	\$2,366 62
Accured interest on bonds and mortgage.....	5,087 13
Accured interest on stock investments, such interest not being in arrears six months, nor included in the market value of stocks, as shown by Schedule B	
Accured interest on loans and deposits.....	72 26
Rents.....	355 00
	<hr/>
	\$7,881 02
Interest in arrears over six months....	678 06
	<hr/>

SCHEDULE G.

STATISTICAL INFORMATION.

1. Number of open accounts January 1, 1876....	2,766
2. Number of accounts opened during the year 1875...	765
3. Number of accounts reopened during the year 1875,	36
4. Number of accounts closed during the year 1875....	1,348
5. Amount deposited, including interest credited, during the year 1875.....	\$454,151 03
6. Amount of deposits withdrawn during the same period.....	729,302 40
7. Amount of interest credited to depositors for the year 1875.....	14,664 22
8. Amount of each semi-annual credit of interest for the year 1875 and when credited : July 1, \$14,664 22. Paid, but credited, during the year.....	599 93
10. Amount of the largest single deposit, exclusive of interest.....	4,141 00
11. Average amount of each deposit, January 1, 1876,	135 32
12. Market value of real estate, viz. : Banking-house and lot, \$50,000 ; other real estate, \$14,000.....	64,000 00
13. Rate per cent of dividends or interest to depositors during the past year, 6 per cent.	

Report of the Security Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1876, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

RESOURCES.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$202,615 00
2. Stock investments, as per Schedule B, hereto annexed	41,133 37
3. Amount loaned on public stocks, as per Schedule C, hereto annexed	1,500 00
4. Banking-house and lot, at cost	79,562 55
5. Other real estate, at cost	15,837 81
6. Cash on deposit in banks or trust companies, as shown by Schedule D, hereto annexed	27,635 70
7. Cash on hand	2,508 28
8. Amount of all other assets, the particular items of which are set forth in Schedule E, hereto annexed,	7,881 02
Deficiency.....	27,175 69
	<hr/>
	\$405,849 42
	<hr/>

LIABILITIES.

1. Amount due depositors.....	\$374,449 06
Principal.....	\$.....
Interest credited for the 1st of July, 1873.....	.....
2. Other liabilities, viz. :.....	.....
Depreciation on real estate	31,400 36
3. Excess of assets over liabilities. ....	.....
	<u>\$405,849 42</u>

Cash on hand and in bank or trust companies January 1, 1875, before transactions of the day.....	\$147,727 40
From depositors.....	439,486 81
From interest on loans, deposits and investments.....	35,048 41
From all other profits, viz.: Premiums, \$750; rents, \$1,731.81.....	2,481 81
From mortgage paid, called in or foreclosed	46,100 00
From redemption of stocks.....	70,118 75
From loans repaid.....	\$176,516 48
From other resources, viz.: Real estate.....	100 00
	<u>\$917,579 66</u>

To depositors, including interest paid to them.....	\$729,302 40
For loans on bonds and mortgages.....	23,500 00
For loans on stocks and other securities.....	70,500 00
For stocks and bonds purchased, par value, \$43,000.....	49,283 37
For real estate purchased.....	6,694 08
For interest not included in payments to depositors.....	599 93
For expenses, as shown by Schedule F, hereto annexed,	7 555 90
Cash on hand and in bank Dec. 31, 1875, after the transactions of the day	30,143 98
	<u>\$917,579 66</u>

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

D. D. T. Marshall, president, and William M. Banks, secretary, of the Security Savings Bank, an incorporated institution for savings located and doing business at No. 507 Third avenue, in New York city, being duly and severally sworn, each for himself saith, that the foregoing report and the schedules accompanying the same are, in

all respects, a true statement of the condition of the said institution before the transaction of any business on the morning of the 1st day of July, 1873, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

D. D. T. MARSHALL,

President.

WM. M. BANKS,

Secretary.

Severally subscribed and sworn by }
both deponents, the 29th day of }
January, 1876, before me.

JOHN H. SCIL,

Notary Public (315), N. Y. Co.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Herman Kochler, William S. Blair, Sr., and John I. Brooks being duly sworn, each for himself saith, that he is one of a committee of regularly appointed by the trustees of the Security Savings Bank, an institution for savings, located and doing business in the city of New York. That such committee made an examination of the books, vouchers and assets of said institution for savings (as provided and directed by section 45 of chapter 371 of the Laws of 1875), and that the within statement of assets is a true statement of the value of such assets in possession of and owned by such institution on the morning of January 1, 1876, as appeared by the examination made by such committee, in pursuance of section 45 of the law above cited.

HERMAN KOCHLER,

WM. S. BLAIR,

JOHN. I. BROOKS.

Subscribed and sworn by each depo- }
nent before me this 29th day of }
January, 1876.

JOHN H. SCIL,

Notary Public (315), N. Y. Co.

Q. After this report came into the department was it before you?

A. Yes, sir.

Q. Did you examine it? A. Yes, sir.

Q. Did you have any conferences with Mr. Ellis about it? A. I do not know that I did.

Q. Did you show him your calculation of figures upon it? A. I made no calculations.

Q. Do you know whether any thing was done to make up the deficiency mentioned there? A. I was under the impression that the bank had failed before the report was examined and marked it on the report.

Q. Was it closed by the department? A. No, sir.

Q. How was it closed? A. I do not know; I think by some of the creditors applying for a receiver; it was outside of the department.

Q. Was any letter written to the Attorney-General by Superintendent Ellis to close it up? A. I know of none.

Q. Do you remember when the receiver was appointed? A. No, sir.

Cross-examination of *Isaac Smith*.

By Mr. MCGUIRE :

Q. Did this report of Mr. Reid's, of December, 1875, show a deficiency of income or not? A. I understood from Mr. Reid it was an excess.

Q. That was the way that you stated? A. I made no statement in regard to it.

Q. The counsel himself stated it? A. He read it.

Q. Look and see what the excess of income is from the same report? A. Nine hundred and forty dollars and twenty-four cents.

Q. Did you receive this report soon after the 1st of January, 1876? A. What report do you refer to? I say it is indorsed the twenty-first of January.

Q. The regular report of the bank to the department? A. Yes, sir.

Q. Can you state what time in January that report was received? A. It is indorsed the thirty-first of January.

Q. Didn't you then understand that when the department received that report, that the bank was in the hands of the receiver? A. I couldn't state that it was before I examined the report; that may have been some days afterward.

Q. This report of January 31, 1876, that I show you—a Senator has called your attention to the amount of the deficiency; you may look at that report, from the face of the report, and state the cause of the deficiency? A. Depreciation in real estate, \$31,431.66.

Q. That is the depreciation from the cost price, isn't it? A. Yes, sir.

Q. And that same depreciation in real estate, caused the deficiency of assets? A. Yes, sir; I should take that as an indication—

Q. I don't ask you about indications ; I ask you about facts appearing from the face of the record ? A. I do not understand that fact.

Q. Thirty-one thousand four hundred and thirty-one dollars and sixty-six cents, you say, is a depreciation in the report ? A. Yes, sir.

Q. Can you state whether, by the law of 1875, the banks are not required to report their real estate to the Bank Department at a sum not exceeding its cost ? A. I understand that that was the law.

Q. Assuming that the cost price of real estate, as mentioned in the report, is true, if they had reported the real estate at its cost, then there would have been no deficiency of assets ? A. No, sir.

Q. Is that a fact ? A. Yes, sir.

Q. As appearing from the record ? A. Yes, sir.

Q. Permit me to call your attention to another subject ; you testified last week that you made an analysis of a report of the Third Avenue Savings Bank ; three separate computations which you had ; the report of 1873 ? A. Yes, sir.

Q. You took that report, and made two separate computations ? A. Yes, sir.

Q. Did you state that you exhibited it to Mr. Ellis ? A. Yes, sir.

Q. Did you show these papers to any other person in the department ? A. I do not know that I did.

Q. Did you show them to any other person at all ? A. I do not know that I did.

Q. Have you since ? A. I have since.

Q. To whom ? A. To Mr. Lamb.

Q. When did you show it to Mr. Lamb ? A. I believe it was last spring.

Q. Is he the only person you have ever shown it to ? A. I think that is all.

Q. Was Mr. Mack in the department last fall or last winter ? A. Well, probably in February or March ; somewhere along there.

Q. Did you exhibit to him ? A. No, sir.

Q. Did you tell him of its contents ? A. I do not know that I ever spoke to any other person about it.

Q. Did you furnish to Mr. Mack the statement upon which he prepared this document that he sent to the Governor ? A. No, sir.

Q. Or have any conversation with him in reference to it ? A. No, sir.

Q. If you did not as a whole, did you not in part ? A. I do not know that I did, sir, in any way.

Q. Do you recollect of talking with him ? A. He was in a few moments while I was at work, and we had some conversation in regard — he said something in reference to the Third Avenue Savings Bank, and that is all I know.

Q. I was asking what he said ; I was asking the abstract question of whether you furnished the information to him to get up these charges to the Governor ? A. No, sir.

Q. Did you call his attention to the books and papers in the office, where he could get the papers and information that he wanted ? A. No, sir.

Q. Or any thing that could give him to understand where he could get them ? A. No, sir.

Mr. TRACY — I object, as irrelevant.

The PRESIDENT — I suppose the object of the examination is to show, if possible, some animus on the part of the witness. In that view, the chair thinks it is competent.

Q. Did you furnish any information in regard to, these banks, or any of that information in the Governor's message, to any reporter ? A. No, sir.

Q. Or through any articles last winter or fall for the New York papers ? A. No, sir.

Q. Or any information upon which certain articles appearing in the papers were based ? A. No, sir.

Q. After this trial commenced did you consult and advise with the prosecution as to the evidence to be furnished ? A. This trial at Saratoga ?

Q. Before the committee or this trial.

Mr. TRACY — Mr. President, he was bound to furnish the counsel of the State, so was Mr. Ellis, and anybody in the department, any information they sought there ; and there is no way of impeaching his conduct in that respect unless he tries to prove it ; and he declined to give it.

The PRESIDENT — The learned counsel wishes to inquire whether the witness had conversation with the counsel.

Mr. McGUIRE — Mr. President, I was not asking about furnishing information or documents to the counsel ; my question was whether he had aided, assisted or counseled with the prosecution as to the evidence to be furnished or documents to be furnished.

The WITNESS — No, sir.

Mr. McGUIRE — Or the mode of conducting the examination into these various banks ? A. No, sir.

Q. This paper that I call your attention to, the memoranda, that was not a paper that belonged to the department was it ; it was your figuring ? A. I suppose it was, sir.

Q. Was it kept as one of the official papers of the office ? A. No, sir.

Q. Then if it belongs to the office, the proper paper of the office ; why wasn't it kept where the official papers relating to the Third

Avenue Savings Bank belonged? A. All my own memoranda at my own desk; I filed away at my own desk.

Q. You kept them under your own supervision? A. Yes, sir.

Q. No other person has access to them, unless you choose to give them that access? A. I didn't put that away with that intention, but that was the fact, I suppose.

Q. You put them in your private desk, under your own control; do you wish the Senate to understand it was a public document? A. I suppose it was made by me at the department.

Q. I did not ask you that; pay attention to the question; keeping this paper under your control in your private desk, a memorandum made for your own benefit, do you want the Senate to understand that is a public document? A. Yes, sir.

Q. Was the paper ever filed as a document? A. No, sir.

Q. Were you subpoenaed to produce private memoranda made by yourself? A. All memoranda.

Mr. TRACY — Mr. President, I object.

Q. Have you the subpoena in your pocket? A. Yes, sir.

By Mr. McGUIRE:

Q. Were you or the chief clerk in the department subpoenaed to produced any thing else but papers relating to the office?

The PRESIDENT — That is objected to; that is covered by the objection that the contents of the subpoena may be shown by producing the documents. Undoubtedly that is the rule.

Mr. McGUIRE — I did not know but I might get it out in a shorter way.

Q. Produce the subpoena and read it? A. Reading:

"That you bring with you, and produce as such witness, all books, examinations, reports, commissions, copies of reports and examinations, letters, telegrams and copies thereof, papers, documents, memoranda, memorandum tables, tabulated statements, record returns, records of examinations and commissions, relating in any manner to the following named bank, and to any matter connected with said bank since January 1, 1873."

Q. Under which clause of that subpoena did you think that your private memoranda was required to be produced? A. Documents, memoranda, etc.

Q. Did you think that included private memoranda that you had in your private drawers? A. I do not know that I could call that a private memoranda; it was done in capacity as clerk of the department.

Q. Did you indicate, before the subpoena was served upon you, to

either of the counsel upon the other side that you had this private memoranda ? A. I do not know that I did, sir.

Q. You furnished them with a copy before you attended as a witness ? A. No, sir.

Q. Did you let either of the counsel look at it when they called at the Bank Department ? A. No, sir.

Q. When did they first ascertain that you had it ? A. I did not know that they ever did ascertain that I had it.

Q. Did you show it to them when you first came here ? A. No, sir.

Q. Did you show it to the committee while the investigation was proceeding before them ? A. No, sir.

Q. Do you mean, Mr. Smith, that the first the counsel on the other side had any idea that you had such a paper was when you voluntarily produced it as a witness ? A. I do not know of any thing different from that.

Q. So far as you know, that was the first knowledge they had of it ? A. Yes, sir.

Q. Do you recollect the former question that was put to you, to produce any memoranda that you had ? A. No, sir.

Q. By the counsel for the State ? A. No, sir.

By Mr. CHAPMAN :

Q. I understood you to say to me that you had shown this paper to Mr. Lamb and to Mr. Werner, and other clerks in the office ? A. If I did show it to Mr. Werner, I have forgotten ; but I remember showing it to Mr. Lamb, because he would take some notice of it.

Q. I got the idea that you showed it to them along about the time it was made ? A. I may have showed it to Mr. Lamb ; I do not know as to the others ; I cannot say ; I may have showed it to more than one in the department ; I do not know.

Q. You have no recollection of showing it to any one in the department along about the time it was made ? A. Mr. Werner was not in the department at the time it was made.

Q. Have you talked with Mr. Lamb since you have been here as to whether this has been shown to him at the time it was made ? A. I guess not ; I think not since I have been here.

By Mr. TRACY :

Q. You are speaking of a memoranda on a printed report, are you not ? A. No, sir, this statement I made in July, 1873, of the report of the Third Avenue Savings Bank.

Q. You did show that to Mr. Ellis ? A. Yes, sir.

Q. You have been subpoenaed twice ? A. I have three subpoenas.

Q. On different occasions ? A. Yes, sir.

Q. Did you observe that one of the questions to you included the idea that you had volunteered to produce this memoranda ? A. I understood.

Q. Did you not produce it upon our asking you to produce all the memoranda you had ?

George W. Reid, a witness on behalf of the State, being recalled, further testified :

Examined by Mr. TRACY :

Q. Did you make an examination of the Security Savings Bank in November, 1875 ? A. I did.

Q. Do you say it was fairly made and reported ? A. It was ; in reference to the deficiency, I would state that, according to my usual custom, I charged the bank with interest accrued on their deposits amounting to \$78,000 ; there was some objection made to that by the officers of the bank, as it was doubtful whether they would declare a dividend, and it had not been determined yet, but if they declared a dividend it was stated to me that the small deficiency of \$890 would be paid in by themselves ; the fact was, they did not declare the dividend, but, of course, I don't know that ; I assume it ; it would leave a surplus of about \$7,000.

Q. Did you ever examine this bank at any other time ? A. I examined it two years and four years previously.

Q. Not afterwards ? A. No, sir.

By Mr. McGUIRE :

Q. It went into insolvency the following month ? A. In January yes, sir.

Q. By the action of its trustees ? A. Yes, sir.

Q. At what time in January ? A. I do not know ; I should think the middle or latter part ; I am not certain of the date.

By Senator BRADLEY :

Q. In your report did you count in the real estate at cost ? A. At cost.

Q. You made no estimate ? A. No, sir ; the officers supposed it was worth more than that.

Q. It seems in January following it was \$31,000, and put in at that amount less ? A. Yes, sir.

William M. Banks, a witness in behalf of the State, being duly sworn, testified as follows:

Examined by Mr. TRACY:

Q. Were you the secretary of the Security Savings Bank? A. Yes, sir.

Q. At the time it closed? A. Yes, sir.

Q. Are you now its receiver? A. Yes, sir.

Q. State when you were appointed receiver? A. On the 1st of February, 1876.

Q. The last report they made was of January 1, 1876; it was verified the twenty-fourth of January, was it not; do you recollect that fact? A. I do not, sir.

Q. You were appointed the first of February? A. Yes, sir.

Q. On whose application were you appointed? A. On the application of one of the depositors, Eliza A. Capron.

Q. How large a depositor? A. I think some \$2,000 or \$3,000.

Q. Was that done at the city of New York? A. Yes, sir.

Q. You were appointed by the Supreme Court? Yes, sir.

Q. Mr. Ellis, of the Bank Department, was not concerned in that appointment? A. No, sir.

Q. Nor in the proceedings? A. Not to my knowledge.

Q. You have been receiver of this bank for more than a year; how much have you been able to pay over to the depositors? A. I have paid over dividends amounting to fifty-seven and a half per cent.

Q. Are there some assets left? A. Yes, sir.

Q. How much more, from your acquaintance with them, do you think you will get out of them for the depositors? A. I think the bank will pay over sixty per cent.

Q. That is, that you will get at least two and a half per cent more? A. Yes, sir.

Q. You have stated the depositors will get at least sixty per cent? A. Yes, sir.

Q. Do you think it will pay more? A. Yes, sir.

Q. How much more? A. It depends entirely upon what I can realize from the bonds and mortgages and real estate; in the present condition of affairs, it is utterly impossible to form an estimate.

Q. State how many depositors there were? A. About 2,600.

Q. About how much was the whole amount of deposits? A. The amount due to the depositors, so far as I can ascertain at present, is about \$389,000.

Q. That was before the dividend? A. That was the regular amount upon which I have been paying dividends.

Cross-examination of *William M. Banks* :

By Mr. MCGUIRE :

Q. When did you become secretary? A. The 1st of February, 1876.

Q. You remained as secretary until it went into liquidation? A. Yes, sir.

Q. You verified this report of January, 1876, as secretary? A. I did.

Q. That is your signature to the report? A. Yes, sir.

Q. You see the jurat is dated January, 29, 1870? A. Yes, sir.

Q. You having been secretary for the time you have stated, had you knowledge of the assets of the bank at the time you made this report? A. Yes, sir.

Q. Did you, when you made this report, swear to it; give a correct statement of the assets and liabilities? A. I intended to; I believe I did.

Q. You made a deficiency in the bank only by a depreciation in its real estate? A. By putting the real estate at what I believed it would bring at a forced sale.

Q. That is the way you brought a deficiency? A. Yes, sir.

Q. Two days after making this report you were appointed receiver? A. Yes, sir.

Q. Was this report made with a view of putting the bank into liquidation? A. No, sir; it was not.

Q. What reason can you give for the insertion of this entry of depreciation in real estate? A. Because I believed the solvency of the bank depended entirely upon the value of its real estate.

Q. You knew you were not required by law to make any such statement to the Bank Department? A. No, sir; I believed I was required to state what I believed to be the truth.

Q. The true condition of the bank? A. Yes, sir.

Q. Whether its real estate had depreciated or not? A. To the best of my knowledge.

Q. Is that the only loss that the bank has sustained, that depreciation of \$31,000, in your judgment? A. That was my judgment at the time that report was made up.

Q. Will it sustain any other loss than the depreciation of the real estate? A. It has sustained other losses.

Q. Now, your real estate, as made by this report of January first, would be \$94,000; to deduct the \$31,000 would leave the value of the real estate, as you returned to the department, some \$63,000? A. Yes, sir.

Q. What did you sell the banking-house for? A. With the fixtures it brought about \$40,000.

Q. It brought \$23,000 less than you reported it to the Bank Department, that and the other pieces of land? A. I think in the estimate of the banking-house; I think the estimate of that was \$50,000 on the 1st of January; that we considered to be hard-pan.

Q. What did you sell the other real estate for that you put in at \$15,837? A. That at Astoria and at New York city brought a profit of nearly \$600.

Q. What? A. The two pieces at Astoria there was a loss on that of \$300; the house in New York city brought a profit of \$885; the property at Mount Vernon I still hold, has not been sold.

Q. What value do you put upon that property? A. I have no purchaser for it.

Q. What I want to get at is this: If all of your other assets were available, and equally convertible, and you only had the loss of about \$8,000 upon your mortgages and the loss that you have mentioned upon your real estate, why you cannot pay more than sixty per cent; that is all I want to get at? A. Because upon an examination of the ledger there was discovered to be a discrepancy between the depositors' ledger and the general ledger.

Q. What was the amount of that discrepancy? A. About \$68,000.

Q. That is the amount due depositors should have been \$68,000 more than reported? A. Yes, sir.

Q. How did you learn that? A. After my appointment as receiver.

Q. My question is, how did you learn it? A. When I was paying my first dividend I found my money was not going to hold out, and one of the clerks whom I employed, and who also acted in the employ of the bank, stole \$500 from me, and departed very suddenly, so I employed experts on the books and discovered what was the cause of it.

Q. You acted as secretary for this company for a period of nearly two years; do you say that you had no knowledge of that discrepancy until after you were appointed receiver? A. I do, most solemnly.

Q. It was your business to have charge of these books, the supervision of them, of the depositors' ledger and the general ledger, wasn't it? A. No, sir.

Q. What was your duty there as secretary, if it was not to supervise this business? A. My business was to take charge of the assets.

Q. This gentleman who purloined the \$500, you say he was the man making these false entries? A. He was.

Q. And concealed them from the officers of the bank; made his en-

tries in such a manner that no officer of the bank could easily detect them? A. Yes, sir.

Mr. TRACY—He has not said that.

Mr. MCGUIRE—I suppose my question must be clothed in my own language.

Mr. TRACY—It should not be leading.

Mr. MCGUIRE—I suppose, on cross-examination, the strictest rule would permit a leading question.

Q. The question was whether he made the entries upon the books in such a manner that even the officers of the bank were deceived?

Mr. TRACY—I object to that.

The PRESIDENT—The Chair is of the opinion that that is hardly to be regarded as of a leading character.

A. He did.

Q. You answer that he did? A. Yes, sir.

Q. How long had you been acting as receiver before the discovery was made? A. From about the first of February to about the fifth of April.

Q. Then you set your clerks to an examination of the books, to discover where the wrong was? A. I hired experts.

Q. How long were these experts engaged in the comparison of the ledger, or the determination of the question? A. I think about six weeks.

Q. Did you learn how long these false entries had been going on? A. I did.

Q. For what length of time? A. For nearly four years.

Q. You, as secretary, from time to time looked over these books, I suppose? A. I did.

Q. Necessarily had to do it to make your report? A. I did.

Q. Did you suspect that there was any thing wrong as to the keeping of the accounts until depositors brought in their pass-books? A. I never had the slightest suspicion of any thing wrong.

Q. When they brought in their pass-books you discovered that the deposits were larger upon the pass-books than they were upon the ledgers? A. No, sir; I have never discovered any discrepancy between the pass-books and the ledgers thus far.

Q. If you never discovered any discrepancy between the pass-books and ledger, then where is the error — on the general ledger? A. Between the general ledger and the depositors' ledger; the depositors' ledger called for more money than the general ledger did.

Q. When you made out your report, you would examine the depositors' ledger? A. No, sir; the general ledger.

Q. Then the officers of the bank, when they reported to the Bank Department, in making up their report did not examine the depositors'

ledger, what was due the depositors ; simply took the general ledger and took the balance as appearing from the general ledger ; is that the way you mean to be understood ? A. Yes, sir.

Q. The depositors' ledger would not show ? A. No ; because I think there were some 3,000 open accounts at that time.

Q. How many experts did you employ these six weeks to ferret out these false entries ? A. Altogether, four.

Q. When you made or verified that report of January 29th, was there any intention, at that time, that the bank should go into liquidation ? A. I suppose it had already been taken ; yes, sir.

Q. Did the officers of the bank procure this woman to be the plaintiff in the case ? A. How is that ?

Q. Did the officers of the bank procure this woman to commence the suit ? A. No, sir.

Q. Or did she commence voluntarily ? A. Well, I do not know.

Q. Don't you know that that suit was the suit of the officers of the bank, and this depositor's name was merely used to effect your purpose ? A. It was an amicable arrangement.

Q. You say the matter, then, was the subject of conversation at the time of the making of this report, that you should go into liquidation ; how long had that state of things continued prior to making that report ? A. I think the first steps were taken on the 25th or 26th of January.

Q. That is, the first steps were taken but had been talked of some weeks before that ? A. It was generally believed the bank would go on in business.

Q. Do you recollect Mr. Reid being there in September, 1875, and making an examination of the bank ? A. It was the latter part of November.

Q. Filed December 2, 1875 ; did you have any conversation with Mr. Reid at that time ? A. Yes, sir.

Q. Do you know whether Mr. Reid was informed by the officers of the bank that they intended to go into liquidation ? A. Not to my knowledge ; I had every belief the bank would go on ; the only question was the value of the real estate.

Q. This depreciation of \$21,000, that would ultimately wind up the bank ? A. Yes, sir unless the bank would recover its value.

Q. Did the bank continue to receive its deposits down to the time of making this report ? A. No, sir.

Q. What time did they cease taking deposits ? A. I think it was in November.

Q. Did they take any deposits after this report of Mr. Reid's ? A. Not to my knowledge.

Q. Do you recollect soon after Mr. Reid made his report, Mr. Ellis'

coming to the bank? A. I do not.

Q. Did you ever see him at the bank? A. No, sir.

Q. Do you recollect of hearing any interview between him and the officers of the bank soon after Mr. Reid's report was sent to the department? A. Please state that question again.

Q. Can you state that any interview took place between Mr. Ellis and the officers of the bank after the making of Mr. Reid's report, between that date and the first of January? A. I think the president of the bank saw Mr. Ellis, but I do not know it.

Q. It was understood in the bank that he had seen Mr. Ellis? A. Yes, sir.

Q. Where? A. In New York.

Q. Was information communicated to the officers of the bank, or any officer employed in the bank by its president, that in consequence of this interview with Mr. Ellis you must cease taking deposits? A. No, sir; I think not.

Q. Was any information communicated to you by the president of the bank that, unless this deficiency was made good, the bank must cease doing business? A. No, sir.

Q. You never had any interview with Mr. Ellis yourself? A. No, sir.

Q. Who was your president? A. D. D. T. Marshall.

Q. Of New York? A. Yes, sir.

Q. A well known gentleman in that city, is he not? A. I presume so.

Q. He is known in the business circles in New York? A. I cannot answer that; I do not know, sir.

Q. It might be, in view of one branch of the case, somewhat material for you to understand — as you seem to be an expert in this matter — how it is possible for a book-keeper of a bank to keep one ledger one way and another ledger in another way, so as to deceive a secretary or financial officer; if you will explain that to the Senate, it may give us some light or information upon the subject? A. Deposits are received at one window; payments are made at another; in the Security Bank, deposits were received at one wicket and the payments made at another; the deposits entered upon a slip of paper and placed upon a needle; receipts were taken for the payments at the other window, and also placed upon a needle; at the end of this work the deposit tickets would be entered upon what was called the deposit books, of which there were two, one showing the depositors account from \$1,000 to \$5,000, and the other from \$5,000 up; and in a similar way the draft tickets, representing receipts for money paid, would be entered upon two draft-books, one up to \$5,000 and the other from \$5,000 up; of course the cash on the deposit side should

equal the account of cash received, and the balance of cash on the paying teller's side should be the difference between the amount on hand in the morning, and the amount on hand at night; the postings would be made upon the depositors' ledger from the deposit-books and the draft-books; the amount of cash received would be entered also upon the credit side of the cash-book, and then the cash would be brought down for a new balance, providing there were no other receipts or payments; at the end of the month the aggregate of these receipts and deposits, receipts and payments, would be taken; they would pass through the journal and these aggregates would be posted into the general ledger; it would be the special items that would be posted to the depositors' ledger; now, in the Security Savings Bank, at the time that deposits were received, the deposits would be entered on the pass-book; when the payments were made, the payments would be entered likewise on the pass-book; this man who stole from the Security Savings Bank, managed it in this way — sometime during the day he would take an opportunity to abstract perhaps a deposit ticket and an equal amount of money from the cash-drawer; there would, therefore, be no entry on the deposit-book of that amount of cash, and the cash, at the end of the day, would balance, as verified from day to day; or he would take an opportunity, in making payments, to forge a receipt and abstract the money on the paying teller's side; that would not be posted to the depositors' ledger, but the amount abstracted on the depositors' side would be put in the depositors' ledger; consequently, the pass-book would always agree with the depositors' book, and, at the same time, there would be a discrepancy between the depositors' ledger and the general ledger.

Q. And, in that way, \$66,000 was abstracted? A. About \$63,000.

Q. That error could not be detected until you had the pass-book to make the comparison? A. It could not be detected from the pass-book; I have compared notes of the cash-book with the ledger.

Q. They agree? A. Yes, sir; that is the way he did it down to the Third Avenue Bank, and they never discovered it until afterwards.

Q. It would require a comparison of every item upon the depositors' ledger with the corresponding item upon the teller's or general ledger? A. I discovered it, and the experts went to work on the deposit-books; they checked from the ledger to the deposit books; and on the draft-book, they checked from the draft-book to the ledger.

Q. How often was this depositors' ledger balanced? A. Every six months.

Q. And the general ledger balanced at the same time? A. The general ledger was balanced every six months.

Q. Did the officers of the bank say whether the balances upon both books were the same, or purported to be the same? A. The aggregate

was taken of these balances upon the depositors' ledger but once a year.

Q. When you did take them, whether once in six months or a year the balances on both ledgers purported to be the same? A. When I first entered upon the discharge of my duties there as secretary I was informed by the book-keeper in charge that the difference between the depositors' ledger and the general ledger was about three dollars, and this was owing to a discrepancy in the interest account; I took off a balance sheet soon after I became secretary; about three months; and the difference reported to me by the two book-keepers was about fifty dollars, and I set them to work to find it out; and they never did find it out.

Q. It required experts to do that, and the length of time you have mentioned, and could not be ascertained in any other way only by an examination of the whole books by experts? A. It could not be.

Q. These entries were made as a general thing in such a manner by this person as to deceive everybody? A. Yes, sir.

Q. And to deceive the very elect? A. Of that I am not qualified to answer.

Mr. TRACY— You stated this had been running along for some time; how long a time? A. I think it was in June or July 1872, that the first item was discovered, an item of five dollars; that was only about ten days, I think, after he entered the bank as clerk.

Q. How often did you find them afterward? A. They were frequent; every two or three days.

Q. Were they continued at something like a uniform rate? A. No, sir; very irregular; I suppose depending upon opportunity.

Q. Can you state about how much speculation; say for the last year? A. I cannot say.

Q. You cannot say the difference between one year and another?

A. No, sir; because the items were irregular and placed in a book and the amount was added up and they were not systematized afterward.

Q. They were continuous for all this period? A. Yes, sir.

Q. State whether any particular item was found to be large? A. I think the largest item was \$600.

Q. What are they generally? A. They would average \$100 or \$200 at a time; something that would not attract attention.

By Senator BRADLEY:

Q. On your general ledger you had a depositors' account? A. Yes, sir.

Q. Your individual ledger was made up of accounts equal to the number of your depositors? A. Yes, sir.

Q. By getting the aggregate of these accounts or balances upon

the individual ledger and comparing and there was a balance of depositors' accounts upon your general ledger, would not you have seen a deficiency? A. Yes, sir; that was the way to find it out.

Q. That discrepancy would have appeared at any time upon such comparison since 1873? A. No, sir; it did not appear because these balance sheets were falsified.

Q. You say that these abstractions were covered by false entries? A. Yes, sir; that is to say, the balance sheets were falsified in addition so as to make the aggregate of deposits agree so as to make the aggregate of balance of deposits agree with the aggregate of the general ledger.

Q. Has there been any time when there would be a discrepancy in the balance as appearing on the books? A. Yes, sir.

Q. It is only by adding up? A. Only actually by going into every item and adding them up.

Q. When did this clerk cease to act as clerk in that bank? A. He was there at the time it was wound up and I hired him to act for me; he took a balance sheet in the same way, falsified it in the same way, and procured the writing of his fellow clerk that it was correct; and upon the strength of that I went on and declared a dividend.

Q. Had he had some experience in the Third Avenue Savings Bank before he went to yours? A. I understood he had some experience

Q. What has become of him? A. He is in Sing Sing.

Q. Had he confessed these thefts that have been referred to, or don't you know any thing about that? A. I don't know about that.

Q. You were present at the time Mr. Reid made the examination in November, 1875? A. Yes, sir.

Q. Was the real estate at that time worth what it was put at in his report? A. There was a difference of opinion about that; some thought it was and some thought it was not.

Q. Did the depreciation of \$31,000, which appeared by your report of January, 1876, occur subsequently to the report of November, 1875? A. A great many of the depositors and trustees thought there was no depreciation; I thought there was.

Q. This depreciation did not occur after the examination by Mr. Reid in November? A. I was always inclined to think the property was worth all that it was estimated at; after the first of January business and every thing looked so blue that I was undecided, and did not overestimate any thing.

Q. The necessity of making any deduction in the estimate did not occur to you until January, 1876? A. No, sir.

By Senator HARRIS :

Q. Wasn't the whole of this still covered up by false footings ? A. Yes, sir.

Q. So that, if a person had run up the column of figures and footed them right, it might have been discovered ? A. Yes, sir.

By Mr. McGUIRE :

Q. What do you mean by saying there were forged receipts ; you stated he gave forged receipts for money ? A. He forged the name of depositors to receipts for money.

Q. He would then transfer the amount of forged receipts to the book ? A. Yes, sir, to go on the draft-book of that day.

Q. Then that would not be an error in footing, would it ? A. Probably I misunderstood the question.

Q. The amount of forged receipts were transferred to the books ; the amounts so transferred would be in the amount footed up ? A. Yes, sir, of each day ; those we found to be correct in every instance.

Senator HARRIS—You did not mean to say the \$63,000 was all taken under the forged receipts ?

Mr. McGUIRE—Oh, no.

By Senator HARRIS :

Q. As I understand your explanation of the matter, it must have been by false footing ? A. It was concealed by false footings.

Q. If the columns had been footed right, if any person had gone over the footing, they could have discovered it ? A. The footings of the balance sheet only.

Q. What ? A. It would be necessary to have footings on the balance sheet refooted.

Q. Taking all the books, if any person had gone over the books and footed the books aright ? A. I verified every day the footing on the deposit-books and cash-books, and they agreed.

By Senator COLE :

Q. And yet this error occurred ? A. And yet this stealing was going on.

By Senator BRADLEY :

Q. This must have been in some manner discovered ? A. Yes, sir.

Q. State when it was discovered ? A. I discovered it when I was paying my first dividend ; I estimated that \$80,000 *about*, would pay the twenty per cent dividend, and I was getting at the end of my \$80,000 and there were a good many unpaid accounts ; and this clerk

discovered I was looking and he defaulted very suddenly, taking \$500 with him ; stealing \$500 from me before he went.

Mr. MCGUIRE—If this whole thing could be ascertained by a footing up of the columns, can you explain why it took four experts six weeks to go over every item of these books and compare them, to ascertain the deficiency ?

Senator COLE—It is all plain enough.

Mr. MCGUIRE—It is plain enough to me.

Q. There was an actual necessity of these experts going over the whole books and making a comparison, you have stated ? A. Yes, sir ; the experts did not know where the discrepancy was ; I did not know where until I found it out.

Mr. TRACY—The necessity of time was to ascertain the extent of this fraud ? A. I had no idea of what it was.

Q. The discovery of its extent was after the man ran away ? A. Yes, sir.

Q. How long before you found it out ? A. Within two days.

Senator BRADLEY—I understand the witness to say that this was produced upon the balance sheet and that, when it was taken from the books, the columns in the books footed up right.

The WITNESS—The footing was forced on the balance sheet to make them agree with the footing on the general ledger.

Q. So that you could not discover it without going to the balance sheet ? A. No, sir.

Q. Could not discover on the books ? A. No, sir.

Q. Had to go to the balance sheet to discover it ? A. Yes, sir ; he was the most skillful man I ever heard of.

Mr. OLMSTEAD—I now offer testimony in regard to the Mutual Benefit Savings Bank of the city of New York. There was no testimony in this case before the Senate committee.

Isaac Smith, a witness in behalf of the State, being recalled, further testified.

Examined by Mr. OLMSTEAD :

Q. Have you the report by Examiners Reid and Aldrich of December 16, 1873 ? A. I produce and hand it to you.

Mr. OLMSTEAD—Mr. President, this is a commission issued by Mr. Ellis, December 9, 1873. It is a report by Reid and Aldrich, made December 16, 1873. It reads as follows :

“BANK DEPARTMENT,
ALBANY, December 9, 1873. }

Pursuant to the authority conferred and the duty imposed upon the Superintendent of the Banking Department by chapter 693 of the

Laws of 1871, I do hereby appoint George W. Reid and William F. Aldrich to examine into the condition, working and affairs generally of the Mutual Benefit Savings Bank, and report thereon to me in detail as soon as practicable.

Given under my hand and official seal at Albany the day and year first above written.

D. C. ELLIS,
Superintendent."

"Hon. D. C. ELLIS, *Superintendent Bank Department:*

SIR.—The undersigned, appointed to examine into the condition, working, etc., of the Mutual Benefit Savings Bank of New York, report:

The accompanying schedules show the general working of the bank.

There is considerable improvement in the character of the bonds and mortgages and call loans since the last examination, but the deficiency has resulted in a deficiency of about \$11,000.

The special deposits have been reduced from \$207,000 to about \$41,000.

The property bid in at foreclosure is supposed to be worth the full amount it stands at on the books.

Respectfully submitted.

GEO. W. REID,
W. F. ALDRICH.

Examined December sixteenth and subsequent days."

MUTUAL BENEFIT—DECEMBER SIXTH AND SUBSEQUENT DAYS.

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	\$206,088 80
Call loans on U. S. 5-20, railroad and town bonds.....	44,718 47
New York county bonds.....	\$70,000 00	100	\$70,000 00	
Westchester county bonds.....	27,900 00	100	27,900 00	
Arcadia county bonds.....	5,300 00	95	5,035 00	
Sodus county bonds.....	2,100 00	95	1,995 00	
Saratoga county bonds.....	400 00	100	400 00	
Real estate, under building clause in charter, contracted for.....	11,746 95
Real estate in New York, bid in on foreclosure.....	7,964 92
Real estate in Brooklyn, bid in on foreclosure.....	8,024 97
Safe and furniture.....	4,000 00
Cash in safe.....	8,284 60	
Cash in Merchants' Exchange National Bank.....	6,727 98	
Interest accrued.....	15,012 58
Due depositors (2,661 depositors).....	\$416,733 37	10,791 00
Interest accrued.....	8,400 00	
Deficiency.....	425,133 37
					\$11,455 68

INCOME.

Bonds and mortgages.....	.....	\$206,089 00	7	\$14,426 23
Call loans.....	.....	44,718 00	7	3,130 26
County and town bonds.....	.....	105,700 00	7	7,399 00
Building contracts.....	.....	11,747 00	7	822 29
Rent of foreclosed property.....	.....	.....	.....	600 00
Cash in bank.....	.....	6,728 00	4	269 12
				26,646 90

CHARGES.

Interest to depositors.....	.....	.....	.....	\$18,300 00
Salaries.....	.....	.....	.....	5,140 00
Rent.....	.....	.....	.....	3,000 00
Internal revenue tax.....	.....	.....	.....	100 00
All other charges.....	.....	.....	.....	3,000 00
				29,540 00
Deficiency of income.....	.....	.....	.....	\$2,893 10

EXAMINATION BLANK — No. 4.

Sundry Items of Assets, the Liabilities, also other Statistics of the Mutual Benefit Savings Bank, as found upon Examination made December 16, 1873, and subsequent days.

Real estate owned, no banking-house.

Location.

Dimensions of ground.

Dimensions of building.

Cost of ground, \$.

Cost of building, \$.

Estimated market value of real estate, \$.

Amount of cash on hand, \$15,012.58.

In vault, \$8,284.60 (to be verified by examiner's count).

In banks or trust companies, viz.: (To be verified by certificates of bank officers). Merchants' Exchange National Bank, \$6,727.98.

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz.:

On bonds and mortgages.....	\$6,449 00
On stocks.....	1,142 00
On call loans.....	3,100 00
On deposit in bank.....	100 00
	<hr/>
	\$10,791 00
	<hr/>

What amount of the above is more than three months over due ? \$776.

Rents due and collectible or accrued to date. None.

Any other properties constituting assets not included above nor in any other list furnished, viz.:

Real estate in New York, bid in on foreclosure.....	\$7,964 92
Real estate in Brooklyn, bid in on foreclosure.....	8,024 97
Real estate building account (see charter), contracted for sale.....	11,746 96
Safe and furniture.....	4,000 00
	<hr/>

Annual rental of real estate owned or leased, at current rates, \$.

Rate of interest on call loans, seven per cent.

Rate of interest on deposits in bank, etc., four per cent.

Interest credited January 1, 187 , \$; deposits, less interest, that date, \$.

Interest credited July 1, 1872, \$12,109.62; deposits, less interest, that date, \$550,735.73.

Interest credited January 1, 1873, \$12,834.08 ; deposit, less interest, that date, \$563,975.10.

Interest credited July 1, 1873, \$11,665.86 ; deposits, less interest, that date, \$548,585.95.

Amount due depositors this date, \$416,733.37.

Estimate of interest accrued to depositors this date, \$8,400.

Any other debts or liabilities due or accrued this date, not included above, viz. : None.

Miscellaneous facts relating to the condition and conduct of business of the Mutual Benefit Savings Bank, in the city of New York, as found upon examination made by direction of the Superintendent of the Bank Department, December 16, 1873, and subsequent days.

ORGANIZATION.

Charter number of trustees? Seventeen.

Number of vacancies? None.

Number constituting quorum? Nine.

Officers elected or appointed from trustees? President, two vice-presidents and secretary.

Officers, clerks and other employees, not members of the board?

Teller, book-keeper, boy and janitor.

Standing or regular committees of the board, their powers and duties? Executive committee have power to make loans on bond and mortgage ; examining committee to examine securities, etc., once or twice a year.

EXPENDITURES.

Salaries, current rate, viz. : Secretary, \$2,500 ; teller, \$1,500 ; book-keeper, \$700 ; boy, \$260 ; janitor, \$180 ; total, \$5,140.

Other expenses, basis of 1873 : Rent, \$3,000 ; internal revenue tax, \$100 ; other taxes, furniture, fixtures and repairs, legal expenses, printing and advertising, stationery and blank-books, fuel, lights and attendance, other expenses, \$3,000.

CONDUCT OF BUSINESS.

Regular meetings of the board? Second Tuesday every month.

Average attendance, 1873? Nine to twelve.

Attendance of officers during business hours? Secretary every day, president twice a week a few hours.

Attendance of trustees? One to three every day.

Application for loans on bond and mortgage, how made? Writing.

To whom referred? Executive committee.

Report on value of property, by whom made? Some member of board.

To whom? Executive committee.

In what form? Writing.

Are applications for loans on bond and mortgage filed or otherwise preserved? Yes.

Ditto of reports concerning value of property? Yes.

Action by vote or otherwise by whom necessary before money is advanced on bond on mortgage? Executive committee have power to make loans.

Ditto of stock investments? Ditto full board.

Ditto of call loans? Executive committee.

Ditto of deposits in bank? Board.

How or by whom are the companies designated in which insurance as security for loans on bond and mortgage is effected? Mortgage policy taken if in good company.

Is the opinion of your counsel ever taken concerning the legality of investments otherwise than on bond and mortgage? Yes.

Opinion in writing or oral? Oral.

At what period does interests on deposits commence? First of every month succeeding date of deposit.

During what time must a deposit remain to be entitled to interest? To interest day, January and July.

By what form of action is the rate fixed or declared? Promised in advance.

Is interest declared or fixed or promised in advance, or only at expiration of interest period? In advance.

Is it based upon the ascertained profits or earnings of the interest period for which it is declared, after deducting expenses therefrom, or is it fixed arbitrarily? Arbitrarily.

Who is the responsible officer in charge of the conduct of business during business hours? Secretary.

Hours during which bank is open? Daily from 10 A. M. to 3 P. M., and Monday and Saturday evening from 4½ to 6½ P. M.

Who receive and pay money over the counters?

What memoranda or entries made by receiving teller of transactions? Ticket, pass-book and deposit book.

What ditto by paying teller? Take receipt, pass-book and withdrawal book.

Who revises and compares these with cash at close of business? Secretary, but not daily.

How often revised and checked or compared by any other officer or committee? Examining committee appointed by president yearly.

In whose custody, or accessible to whom, are the securities of the bank kept? Secretary and president.

How often and by whom examined? Examination made at request of president irregularly, say about once a month.

How is their correctness verified? Comparison with books.

At these examinations, is the cash actually counted? No.

How is amount of cash deposited in bank, ascertained by them?

Reports and statements of total cash received and disbursed, made by whom? Secretary.

To whom? Executive committee.

How often? Almost semi-weekly.

In what form? Writing.

How and by whom verified? Secretary.

Ditto of assets and liabilities? Monthly.

Bonds of officers, etc., viz.: Secretary, \$10,000; teller, \$5,000.

In whose custody? President.

Number of open accounts? Two thousand six hundred and sixty-one.

Largest single? Ten thousand dollars.

Number exceeding \$5,000? Two.

Average? One hundred and fifty-six dollars and fifty-seven cents.

Are depositors allowed to draw checks upon their accounts? About fifty are on special account.

By whom must the checks of the institution be signed? President and secretary.

Has any officer or trustee, to your knowledge, or according to your belief, ever received any commission or part of commission, or any bonus from any person, on any loan on bond and mortgage, or on the purchase or sale of any stocks or bonds by this institution? No.

Q. I call for the report of the bank of January 1, 1874; this is a report by the officers of the bank to the bank department. The report and Schedule G reads as follows:

Report of the Mutual Benefit Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1874, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed	\$194,595 48
2. Stock investments, as per Schedule B, hereto annexed.....	105,963 72

3. Amount loaned on public stocks, as per Schedule C, hereto annexed	\$3,500 00
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed.	48,318 47
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate, cost \$27,253.56 market value \$; standing on books at \$	27,253 56
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	3,871 11
8. Cash on hand not deposited in bank.....	22,884 88
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	21,924 02
	<hr/>
	\$428,311 24
	<hr/>

Liabilities.

1. Amount due depositors.....	\$428,311 24
Principal.....	\$417,143 18
Interest credited for the 1st of Jan., 1874.....	11,168 06
2. Other liabilities, viz.....	
3. Excess of assets over liabilities.....	
	<hr/>
	\$428,311 24
	<hr/>

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1874.....	2,655
2. Number of accounts opened during the year 1873,	764
3. Number of accounts closed during the year 1873..	995
4. Number of accounts opened since organization...	7,976
5. Amount deposited, not including interest credited, during 1873.....	\$2,152,976 92
6. Amount deposited, including interest credited, for the same period.....	2,175,895 39
7. Amount withdrawn during the year 1873.....	2,324,393 33
8. Amount of interest or profits received * during the year 1873.	33,284 02
9. Amount of interest credited to depositors for the same period.....	22,927 47

* If amount received is reported, strike out " or earned ;" if amount earned is reported, strike out " received or."

10. Amount of each semi-annual credit of interest for the year 1873, and when credited: July 1, \$11,665.86; January 1, \$11,168.06..... \$93 55
Credited at other periods during the year.....
11. Rate per cent of dividends or interest to depositors during the past year, four per cent and six per cent.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Charles K. Graham, president, and George H. Benedict, secretary of the Mutual Benefit Savings Bank, an incorporated institution for Savings, located and doing business at No. 166 Nassau street, in the city of New York, being duly and severally sworn, each for himself, saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the first day of January, one thousand eight hundred and seventy-four, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

CHARLES K. GRAHAM,
President.
G. H. BENEICT,
Secretary.

Severally subscribed and sworn by }
both deponents, the 23d day of }
January, 1874, before me.

WM. W. BURNHAM,
Notary Public.

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS.

	Excess of cost over market value.	Excess of market value over cost.
United States stocks.....
New York State stocks.....
Stocks of other States.....
Bonds of counties, cities and towns of this State.....	\$3,236 28
Other stocks and bonds.....
Real estate.....
Totals
Difference.....	* \$.....	\$3,236 28

* If cost exceeds market value the difference should be entered under the head "Other Liabilities," in the report.

LOANS, DEPOSITS, INVESTMENTS OR ASSETS OF EVERY DESCRIPTION
NOT HERETOFORE ENUMERATED, VIZ.: †

Accrued interest on bond and mortgage loans to December 31, 1873.....	\$4,036 01
Accrued interest on call loans to December 31, 1873...	3,120 12
Accrued interest on New York city and county bonds to December 31, 1873.....	830 28
Accrued interest on Westchester town bonds to December 31, 1873.	330 92
Accrued interest on Arcadia and Sodus bonds to December 31, 1871..	175 54
Accrued interest on Saratoga town bonds to December 31, 1873.....	25 67
Accrued interest on deposits in Merchants' Exchange Bank to December 31, 1873.....	191 09
Safe, bank fixtures, furniture, lease, etc.....	4,000 00
Trustees' obligations to make up deficiency of.....	5,978 11
	<hr/>
	\$21,924 02
	<hr/>

Mr. OLMSTEAD—I have here the report of July 1, 1874, made by the bank to the department; it is a report and schedule G; I offer it in evidence, and it reads as follows :

Report of the Mutual Benefit Savings Bank, an incorporated institution for savings, of its condition on the 1st day of July, 1874, made to the Superintendent of the Banking Department, as required by chapter 136, Laws of 1857.

RESOURCES.

1. Bonds and mortgages, as shown by Schedule A, hereto annexed..... \$172,492 47
2. Stock investments, as shown by Schedule B, hereto annexed..... 120,526 00
3. Amount loaned on public stocks, as per Schedule C, hereto annexed..... 4,680 00
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed..... 34,118 47

† As interest credited to depositors is stated among the liabilities, it will, of course be just to include in this schedule the interest due, though unpaid, on investments.

5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate, standing on books at \$28,034.53.....	28,034 53
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed.....	11,696 71
8. Cash on hand not deposited in bank.....	21,188 05
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	28,229 30
	<hr/>
	\$420,965 53
	<hr/>

LIABILITIES.

1. Amount due depositors.....	\$420,965 53
Principal.....	\$411,152 01
Interest credited for the 1st of July, 1874.....	9,813 52
2. Other liabilities, viz. : Excess of assets over liabilities,	
	<hr/>
	\$420,965 53
	<hr/>

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss. :

Charles K. Graham, president, and George H. Benedict, secretary of the Mutual Benefit Savings Bank, an incorporated institution for savings, located and doing business at No. 166 Nassau street, in the city of New York, being duly and severally sworn, each for himself, saith that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the conditon of the said institution before the transaction of any business on the morning of the 1st day of July, 1874, in respect to each and every of the items and particulars above specified, according to the best of his knowledge and belief.

CHARLES K. GRAHAM,
President.

G. H. BENEDICT,
Secretary.

Severally subscribed and sworn }
by both deponents, the 23d day }
of July, 1874, before me.

WILLIAM W. BURNHAM,
Commissioner of Deeds.

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS:

	Excess of cost over market value.	Excess of Market value over cost.
United States stocks.....
New York State stocks.....
Stocks of other States.....
Bonds of counties, cities and towns of this State.....	\$5,124 00
Other stocks and bonds.....
Real estate.....
Totals.....
Difference.....	* \$	\$5,124 00

LOANS, DEPOSITS, INVESTMENTS OR ASSETS OF EVERY DESCRIPTION, NOT HERETOFORE ENUMERATED, VIZ.:†

Accrued interest on bond and mortgage loans to June 30, 1874.....	\$5,373 27
Accrued interest on call loans to June 30, 1874... ..	4,278 73
Accrued interest on New York city bonds to June 30, 1874.....	1,008 19
Accrued interest on Westchester bonds to June 30, 1874.....	319 06
Accrued interest on Arcadia and Sodus bonds to June 30, 1874.....	172 67
Accrued interest on Saratoga bonds to June 30, 1874..	11 67
Accrued interest on Merchants' Exchange Bank, to June 30, 1874.....	422 13
Bank safes, fixtures and furniture, etc.....	4,000 00
Trustees' obligations to make up deficiency.....	7,519 58
	<u>\$28,229 30</u>

* If cost exceeds market value the difference should be entered under the head, "Other liabilities," in the report.

† As interest credited to depositors is stated among the liabilities, it will, of course, be just to include in this schedule the interest due, though unpaid, on investments.

Mr. OLMSTEAD — I now produce the report of the bank made to the department January 1, 1875. It reads as follows :

Report of the Mutual Benefit Savings Bank, an incorporated institution for savings, of its condition on the 1st day of January, 1875, made to the Superintendent of the Banking Department, as required by chapter 136 of the Laws of 1857.

FINANCIAL.

Resources.

1. Bonds and mortgages, as per Schedule A, hereto annexed.....	\$165,138 56
2. Stock investments, as per Schedule B, hereto annexed.....	120,526 00
3. Amount loaned on public stocks, as per Schedule C, hereto annexed.....	3,710 00
4. Amount loaned on stocks or bonds of private corporations, as per Schedule D, hereto annexed....	7,298 47
5. Amount loaned on personal securities, as per Schedule E, hereto annexed.....	
6. Real estate, cost... ..	28,374 34
7. Cash on deposit in banks or trust companies, as per Schedule F, hereto annexed	54,582 89
8. Cash on hand not deposited in bank.	20,774 21
9. Amount of assets not included under either of the above heads, the particular items of which are set forth in Schedule G, hereto annexed.....	35,316 18
	<hr/> <hr/>
	\$436,350 65

Liabilities.

1. Amount due depositors.....	\$436,350 65
Principal.....	\$425,155 70
Interest credited for the 1st of January, 1875.....	11,194 95
2. Other liabilities, viz. :.....	
3. Excess of assets over liabilities.....	
	<hr/> <hr/>
	\$436,350 65

STATISTICAL.

1. Number of open accounts on the morning of January 1, 1875.....	\$2,629
---	---------

2. Number of accounts opened during the year 1874..	752
3. Number of accounts closed during the year 1874..	778
4. Number of accounts opened since organization....	8,728
5. Amount deposited, not including interest credited during 1874.....	1,756,117 24
6. Amount deposited, including interest credited, for the same period.....	1,777,156 12
7. Amount withdrawn during the year 1874.....	1,769,116 71
8. Amount of interest or profits received or earned * during the year 1874.....	21,187 99
9. Amount of interest credited to depositors for the same period.....	21,038 88
10. Amount of each semi-annual credit of interest, for the year 1874, and when credited: July 1, 1874, \$9,813.52; January 1, 1875, \$11,194.95.....	
Credited at other periods during the year	30 41
11. Rate per cent of dividends or interest to depositors during the past year, four per cent and six per cent.	

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

Charles K. Graham, president, and G. H. Benedict, secretary, of the Mutual Benefit Savings Bank, an incorporated institution for savings, located and doing business at Mo. 166 Nassau street, in the city of New York, being duly and severally sworn, each for himself, saith, that the foregoing report and the schedules accompanying the same are, in all respects, a true statement of the condition of said institution before the transaction of any business on the morning of the 1st day of January, 1875, in respect to each and every of the items and particulars therein specified, according to the best of his knowledge and belief.

CHARLES K. GRAHAM,
President.

G. H. BENEDICT,
Secretary.

Severally subscribed and sworn by both }
deponents, the 27th day of January, }
1875, before me.

A. H. BRADLEY,
Notary Public, City and Co. of N. Y.

* If amount received is reported, strike out "or earned;" if amount earned is reported, strike out "received or."

SCHEDULE G.

DIFFERENCE BETWEEN MARKET VALUE AND COST OF THE FOLLOWING INVESTMENTS:

	Excess of cost over market value.	Excess of Market value over cost.
United States stocks.....
New York State stocks.....
Stocks of other States.....
Bonds of counties, cities and towns of this State.....	\$7,249 00
Other stocks and bonds.....
Real estate.....
Totals.....
Difference.....	*\$.....	\$7,249 00

LOANS, DEPOSITS, INVESTMENTS, OR ASSETS OF EVERY DESCRIPTION,
NOT HERETOFORE ENUMERATED, VIZ.:

Accrued interest on bond and mortgage loans to Decem- ber 31, 1874.....	\$7,874 21
Accrued interest on call loans to December 31, 1874....	5,230 93
Accrued interest on New York city bonds to December 31, 1874.....	1,008 19
Accrued interest on Westchester bonds to December 31, 1874.....	319 06
Accrued interest on Arcadia and Sodus bonds to Decem- ber 31, 1874.....	175 54
Accrued interest on Saratoga bonds to December 31, 1874.....	25 67
Accrued interest on Merchants' Exchange Bank balances to December 31, 1874.....	281 37
Bank safes, fixtures, furniture, etc.....	4,000 00
Trustees' obligations to make up deficiency of.....	9,152 21
	<u>\$35,316 18</u>

* If cost exceeds market value the difference should be entered under the head, "Other Liabilities," in the report.

†As interest credited to depositors is stated among the liabilities, it will, of course, be just to include in this schedule the interest due, though unpaid, on investments.

Mr. OLMSTEAD—I produce the report of the examiners of November 15, 1875. The letter accompanies the report to Mr. Ellis. It is filed December 2, 1875, and reads as follows :

“BANK DEPARTMENT,
STATE OF NEW YORK. }

Pursuant to the provisions of chapter 371 of the Laws of 1875, I do hereby appoint George W. Reid to examine into the condition, working, and affairs generally, of the Mutual Benefit Savings Bank, New York city, and report thereon to me, in detail, as soon as practicable.

Given under my hand and official seal, at Albany, this 25th day of October, 1875.

D. C. ELLIS,
Superintendent.”

“Hon. D. C. ELLIS, *Superintendent Banking Department* :

DEAR SIR.—The undersigned, appointed to examine into the condition, working, etc., of the Mutual Benefit Savings Bank of New York, reports.

The call loans include notes for \$10,000 (on interest), with collaterals put in a year or two ago by the trustees towards the deficiency. The interest on these notes has not been paid, and the collaterals are short in value, probably \$3,000, in addition to the present deficiency of \$22,783.

The amount of real estate bid in is large, and could not now be sold without a loss of probably \$20,000.

Respectfully submitted.

GEO. W. REID.

Examined November 15, 1875, and subsequent days.”

ASSETS AND LIABILITIES of the Mutual Benefit Savings Bank of New York, upon the 15th day of November, 1875,
as found upon examination made by the direction and authority of the Superintendent of the Bank Department.

	Rate of interest.	Amount at par.	MARKET VALUE.		Totals.
			Rate.	Amount.	
Bonds and mortgages.....	7	.....	....	.....	\$132,792 77
Call loans.....	7	.....	....	.....	29,925 47
Texas State bonds.....	10	\$20,000 00	100	\$20,000 00	
New York city bonds.....	7	85,000 00	110	93,500 00	
Long Island City bonds.....	7	43,000 00	100	43,000 00	
Westchester county bonds.....	7	24,400 00	105	25,620 00	
Richmond county bonds.....	7	7,000 00	100	7,000 00	
Arcadia town bonds.....	7	5,300 00	100	5,300 00	
Sodus town bonds.....	7	2,100 00	100	2,100 00	
Saratoga Springs village bonds.....	7	300 00	100	300 00	196,820 00
Safes and fixtures.....	....	.....	....	.....	2,500 00
Real estate, Bloomingdale.....	....	.....	....	\$8,103 12	
Real estate, Brooklyn.....	....	.....	....	8,883 04	
Real estate, Jamaica.....	....	.....	....	4,314 12	
Real estate, Mott Haven.....	....	.....	....	4,312 72	
Real estate, two houses East 58th street, N. Y.....	....	.....	....	26,955 07	52,568 07
Cash in safe.....	....	.....	....	.....	3,799 38
Interest accrued.....	....	.....	....	.....	14,220 00
					\$432,625 69

LIABILITIES.				
Due depositors.....	....	.....	....	\$446, 709 61
Interest accrued.....	....	.....	....	8, 700 00
				<hr/> 455, 409 61
Deficiency of assets.....	....	.....	....	<hr/>\$22, 783 92

ANNUAL INCOME from the investments of the Mutual Benefit Savings Bank as they were found upon examination made on the 15th day of November, 1875, and the annual charges thereon at current rates or estimated on the basis of 1875.

INVESTMENTS.		Rate of interest.	Amount at par.	Revenue.	Totals.
Bond and mortgages.....		7	\$132,792 00	\$9,295 44	
Call loans, in part.....		7	19,925 00	1,394 75	
Texas State bonds.....		10	20,000 00	2,000 00	
City and other bonds.....		7	167,100 00	11,697 00	\$24,387 19
CHARGES.					
Interest to depositors.....		.....	.....	\$23,000 00	
Salaries .....		.....	.....	2,456 00	
Rent .....		.....	.....	3,200 00	
Internal revenue tax.....		.....	.....	400 00	
All other charges.....		.....	.....	1,725 00	30,781 00
Deficiency of income.....		.....	.....	.....	\$6,393 81

EXAMINATION BLANK—No. 4.

Sundry Items of Assets, the Liabilities, also other Statistics of the Mutual Benefit Savings Bank, as found upon examination made November 15, 1875.

Real estate owned.

Location.

Dimensions of ground.

Dimensions of building.

Cost of ground, \$.

Cost of building, \$.

Estimated market value of real estate, \$.

Amount of cash on hand:

In vault, \$3,799.38 (to be verified by examiner's count).

In banks or trust companies, viz. (to be verified by certificates of bank officers):

Cash.....	\$7,438 40
Less overdraft at Merchants' Exchange Bank.....	3,639 02
	<hr/>
Cash as above.....	3,799 38
	<hr/> <hr/>

Estimate or approximate calculation of interest accrued, or due and unpaid, on investments at this date, viz.:

On bonds and mortgages.....	\$10,334 00
On stocks (exclusive of those in which interest accrued forms part of the market value, and is so extended)...	3,116 00
On call loans.....	
On deposits in bank.....	770
	<hr/>
	\$14,220 00
	<hr/> <hr/>

What amount of the above is more than three months over due? \$6,466.

Rents due and collectible or accrued to date, \$

Any other properties constituting assets not included above nor in any other lists furnished, viz.:

Safes and furniture.....	\$2,500 00
	<hr/> <hr/>

Annual rental of estate owned or leased, at current rates, \$.

[Rate of interest on call loans, seven per cent, except on \$10,000.

Rate of interest on deposits in bank, etc.

Interest credited January 1, 187 , \$; deposits, less interest, that date, \$.

Interest credited July 1, 1874, \$9,813.52 ; deposits, less interest, that date, \$411,152.01.

Interest credited January 1, 1875, \$11,194.95 ; deposits, less interest, that date, \$425,155.70.

Interest credited July 1, 1875, \$10,727.40 ; deposits, less interest, that date, \$452,732.06.

Amount due depositors this date, \$446,709.61.

Estimate of interest accrued to depositors this date, \$8,700.

Any other debts or liabilities due or accrued this date, not included above, viz. : None.

Q. Do you know whether any thing was done by the department in respect to closing this bank? A. I do not.

Q. Nothing appears on the records of the department? A. I have examined the letter-book.

By Senator WOODIN :

Q. Has there been any examination made of the bank between February, 1873, and December, 1875, than the one that has just been received here? A. No, sir.

Q. Any other examination of the bank by the department? A. No, sir.

Mr. MCGUIRE—The examination in 1873 was in November?

Mr. OLMSTEAD—In Dec. 1873.

Q. Were there any examinations reported to the department of this bank between December 16, 1873, and November, 1875? A. I think not; they were both regular examinations.

By Mr. MCGUIRE :

Q. You say no regular examinations; did you make any other one? A. I did not make any other examination.

Q. Look at your memoranda of the examination of 1873, in December; the bank soon afterwards reported to the department, which report shows they had a surplus; what amount of bonds and mortgages were at the bank at the time of your examination? A. December, 16, \$206,088.80.

Q. By the report of the bank of the first of January? A. One hundred and ninety-four thousand five hundred and ninety-eight dollars and forty-eight cents.

Q. What kind of stock investments had they at that time ? A. One hundred and five thousand three hundred and thirty dollars.

Q. What was the general character of those investments ? A. They were good ; \$70,000 New York city and county, and \$25,000 of town bonds.

Q. The bank reports \$105,963.72 ; amount loaned on public stocks how much ? A. I have the amounts ; in all, \$44,718.

Q. That item of amount loaned on public stocks, as per Schedule C, \$3,500 ? A. I have not them separate ; I have them in the aggregate.

Q. Amount loaned on stocks or bonds of private corporations, as per Schedule D, \$48,318.47 ; have you any such item ? A. No, sir ; that was more than I reported ; I reported \$44,718 in all.

Q. Does your memoranda show any of the stocks or bonds of private corporations that same year ? A. No, sir.

Q. The schedule here does ; the amount loaned on personal security as per Schedule E, hereto annexed ; what have you there for real estate ? A. Real estate bid in on foreclosure \$15,989.89 ; that was owned by the bank.

Q. The bank report \$27,253.56 ? A. In addition to that they have what they call a real estate building clause ; in their charter they had a peculiar privilege, that they could put up buildings and sell them too ; the only charter that ever had such a clause as that, I believe ; and under that clause they had built, I believe, two houses over in New Jersey — two or three — and this was the footing of those accounts, \$11,746.95.

Q. Had they put in real estate that they had bid in ? A. That would make \$28,736.

Q. That makes up about \$1,000 more ; how much cash at that time on deposit in bank ? A. Eight thousand two hundred and eighty-four dollars and sixty cents.

Q. The whole amount of assets ? A. Four hundred and thirteen thousand six hundred and seventy-seven dollars and sixty-nine cents.

Q. It is here \$428,311.24 ; what is the amount of liabilities you refer to as due depositors ? A. Four hundred and sixteen thousand seven hundred and thirty-three dollars and thirty-seven cents ; interest accrued on those deposits from the first of July, eighty-four dollars, making \$4,251,133.37.

Q. Four hundred and twenty-eight thousand three hundred and seven dollars and twenty-four cents the bank reports ? A. That is the principal of \$417,133.18, and accrued interest, \$11,168.66, making a total of \$428,311.24.

Q. With that report you make a small deficiency ? A. Yes, sir.

Q. The bank reports on the first of January that they had trustees'

obligations to make up the deficiency, \$15,978.11 ; were any of those obligations in your report ? A. No, sir.

Q. What is the deficiency that you there report ? A. Eleven thousand and four hundred and fifty-five dollars and sixty-eight cents.

Q. You did not examine this bank again until November, 1875 ? A. No, sir ; I think I did not ; I have no recollection.

Q. Look and see what mortgages the bank had in the report of 1876 ? A. They made a report on the first of January, 1876 ; that you have put in evidence, Mr. Olmstead.

Mr. OLMSTEAD — I did not put that report in.

Mr. MCGUIRE — Then it went into the hands of the receiver ?

Q. I want to call your attention to the general character of the assets, of what did they consist ? A. Bonds and mortgages and loans ; \$20,000 Texas State, \$93,500 New York City, \$43,000 Long Island City, \$25,620 Westchester county, \$7,000 Richmond, \$400 town bonds and \$300 of Saratoga Springs village bonds.

Q. What were those Texas bonds ? A. The State of Texas bonds

Q. What amount ? A. Twenty thousand dollars at par.

Q. Were those bonds selling at par then ? A. Yes.

Q. All the securities of the bank were good available securities ?

A. Yes, sir ; the securities were all good ; worth about par ; some of them a little over.

William F. Aldrich, a witness on behalf of the State, being duly sworn, testified as follows :

Examined by Mr. OLMSTEAD :

Q. Are you the receiver of the Mutual Benefit Savings Bank of the city of New York ? A. Yes, sir.

Q. When were you appointed ? A. The 3d of December, 1870.

Q. By whom were you appointed ? A. By the Supreme Court.

Q. In a suit by whom ? A. Simmons against the bank.

Q. By one of the depositors against this bank ? Yes, sir.

Q. It was an action brought by one of the depositors of the bank ?

A. Yes, sir

Q. You were not appointed on the action of the Attorney-General ?

A. No, sir.

Q. What amount of assets have you received ? A. Nominally, about \$420,000.

Q. What were the amount of liabilities ? A. About \$445,000.

Q. Have you declared a dividend ? A. Yes, sir ; two dividends of 25 per cent each, making 50 per cent.

Q. How much will the assets probably realize, to the best of your knowledge and belief ? A. It is guess-work in the present condition of the real estate market ; I am in hopes of paying 25 per cent more.

Q. How many depositors were they when the bank closed? A. About 2,800; 700 or 800 of these were so small that they could hardly be considered depositors.

Q. Did you receive any portion of the trustees' notes as a portion of the assets? A. Yes, sir.

Q. What amount? A. I do not recollect now; in various bonds, I think, there were \$8,000 or \$9,000 of the deficiency fund; perhaps \$10,000; they were in notes, and put in as call loans — a part — and part of them were carried as cash.

Q. Have those notes been paid? A. A part of them.

Q. To what amount? A. I think \$6,000.

Q. Any of them in litigation? A. No, sir.

Cross-examination of *William F. Aldrich* :

By Mr. McGUIRE :

Q. Have you your books and papers here? A. Some of them; I got a telegram late last night, and I didn't have an opportunity to get many of them.

Q. I do not know that I understood the amount of assets you received? A. Nominally, about \$420,000; they were \$22,000 short of the examination made by Mr. Reid in November, and I received substantially the property that he gave in his report, and very little alteration at the time.

Q. The amount of liabilities is about \$440,000? A. Four hundred and forty-five thousand dollars.

Q. Five thousand dollars difference? A. Yes, sir.

Q. Why do you say "nominal assets?" A. They were put in, in this appraisal, at cost; the real estate was put in at cost to the bank; it was not worth as much at that time.

Q. The bank did not have a very large amount of real estate? A. No, sir, not a very large amount.

Q. Can you state what amount in value was put upon the real estate, as it came into your hands? A. I did not have it appraised except as at the cost of the bank.

Q. I mean, as credited to the bank? A. I do not recollect; Mr. Reid has a memorandum of it.

Q. The bank has no bank building? A. No, sir.

Q. It simply had this real estate for some \$16,000 or \$17,000, bid in by the bank? A. More than that.

Q. Hear my question through — all these Bedford houses, which Mr. Reid spoke of, they built over in New Jersey? A. The real estate they bid in was larger than that, according to my recollection.

Q. Twenty-eight thousand dollars, Mr. Reid states all their real estate bid in at? A. I took a copy of this memorandum at the time.

Q. See what amount of real estate the bank had, or the value that was put upon it by the bank or Mr. Reid, in November, 1875? A. Mr. Reid puts it at \$152,568.07.

Q. All the real estate? A. Yes, sir, that they had at that time; that did not include, I think — that does not include the contract for real estate in New Jersey.

Q. If it did not, these contracts should have been put in as an asset?

A. They were closed up when I came in, and I don't know but they were closed up when I made the examination, and were in the shape of bonds and mortgages; they were all paid; they were all good.

Q. Is there any other asset of this bank that came into your hands liable to result in a loss, except the real estate that you have mentioned?

A. These bonds and mortgages.

Q. You think there will be a deficiency upon the bonds and mortgages? A. I know there will be, for I foreclosed several and have been unable to obtain the amount of them.

Q. The real estate, at forced sale, won't sell for the amount of the mortgage debt? A. No, sir.

Q. By reason of the depressed condition of the real estate market?

A. Yes, sir.

Q. Do you find any cash market value for real estate now in the city of New York. A. None, whatever.

Q. If real estate is put up now by a receiver, whether under order of a court or otherwise, at a cash sale, it must necessarily be sacrificed?

A. I think necessarily; it would not bring twenty-five cents on the dollar.

Q. Can you state about the amount of loss upon the bonds and mortgages? A. I cannot; I think there will be a loss of nearly half; there will be a loss of over fifty per cent.

Q. Is there likely to be a loss upon any security, except the mortgages and real estate? A. There will be some loss on the call loans.

Q. The parties not being good? A. Yes, sir.

Q. Failed since the loan? A. Yes, sir; and the collaterals depreciated.

Q. Parties have failed and the collaterals depreciated? A. Yes, sir; these notes that were put up by the trustees were put in as call loans, and some of them were secured and some were not; that is, the securities they put up proved to be bad, railroad bonds that proved to be not good, and there will be some loss on those, but not a very great loss.

Q. What is the whole amount of the trustees' bonds at the time they came into your hands? A. I do not recollect exactly; they

were not in that shape; they were not exactly as trustee bonds; a part of them were carried as cash and part were in call loans; I think about \$10,000 in all.

Q. What month and year were you appointed receiver? A. Third of December, 1875.

Q. How many days after Mr. Reid's report? A. He sent his report the second of December.

Q. You were appointed receiver on the third? A. Yes, sir; I may say Mr. Ellis was there I think about the time negotiating with the trustees to make up this deficiency; he gave them two or three days for that purpose.

Q. And during those two or three days they got up this suit? A. Yes, sir.

Q. And put it in liquidation themselves? A. Yes, sir; they finally determined they could not make it up; they were in negotiations, and they proposed to make up the bank's deficiency, but on looking into it they found the expenses were much greater than any profits they could make by difference of interest on the deposits; and so they gave up the idea and put it into liquidation, for the reason that they did not wish to stand a run, as it would be injurious to the depositors, and they thought the true way was to close it out at once and to give the depositors the benefit equally.

Q. They preferred that course rather than by the action of the Attorney-General? A. Yes, sir; they did not want to have any time lost.

Mr. TRACY—Mr. President, I now announce that the counsel for the State offer no further testimony and rest their case.

Recess to 4 P. M.

SARATOGA SPRINGS, *August 3, 1877*—4 P. M.

The Senate met pursuant to adjournment.

Mr. McGUIRE—Mr. President, we have concluded to ask the indulgence of the Senate to adjourn the taking of any further testimony, say, until Monday or Tuesday next week, for two reasons. First, we think it would be a saving of time to the Senate to give us time to wade through this mass of testimony that has been given, to see what portions of it we wish to make any response to; and, secondly, there have been many documents introduced, which have not been read, which we have not had an opportunity to examine; and by the time to which the Senate will adjourn to, if our request be granted, we can have an opportunity to examine those papers and see what portions of

them we wish to give evidence directed to ; and, if that course is adopted, we can sift out that portion of the case made by the State that we wish to make answer to, get it in a more connected form, and save the time of the Senate in so doing, and with the views I have stated we shall ask the indulgence of the Senate to grant this request, either to Monday or Tuesday, as may best suit the Senate.

Senator COLE—Mr. President, I would suggest that if the application is to be heard that the recess be taken until Monday afternoon, then we are sure to get a quorum here Tuesday morning; and if we put it off until Tuesday we shall not get a quorum until the next day. I simply throw out the suggestion whether it would not be better to put it Monday afternoon instead of Monday morning.

Senator VEDDER—Mr. President, in connection with that I wish to make a suggestion, which probably is in the minds already of the counsel in behalf of the State, and also of the defense, and that is this: It seems to me that the most intelligent way of bringing this matter to the judgment and knowledge of the Senate would be to have a *brief* made by the counsel, particularly on the part of the State, calling the attention of the Senate particularly to that part of the testimony which they deem most material and essential for the decision of this matter, and in the printed testimony, give us the pages, etc., so as to make it a matter of easy reference, easy following by the Senate in their argument. There is a vast amount of testimony here, and an oral argument to the Senate, it seems to me, would not enlighten it much. There is a good deal of this testimony that was not heard by the entire Senate. It was impossible to hear it, and after the thread had been lost, it was a hard matter to take it up. Sitting where I do, behind the witnesses, I have heard a very little of this, and that much I did hear was so disconnected from that which has gone before, and which might follow it, that it gave me but a small idea of what the testimony really was. And it seems to me that if a brief were made, and that was printed, calling our attention specifically to those things that they deem material, that it would be infinitely better for the Senate to guide them directly to the matter that they deem important. I merely throw that out as a suggestion, that, in the event the Senate do adjourn, they may prepare themselves to take that line of conduct.

Senator WOODIN — Mr. President, on this question of adjournment, I understand the ground of the application to be that they will be, by examining the evidence — examining these documents that have been introduced — prepared to shorten the trial somewhat, and if there is an adjournment over until Monday or Tuesday, they will be able, after that examination, to fix upon a line of investigation. I want to inquire of counsel when they expect to get the evidence that has al-

ready been taken. We have got on our files part of the evidence in the Third Avenue Savings Bank, and to-morrow is Saturday. Sunday they do not expect to labor, at any rate printers will not. Where do they expect to get it, if we adjourn to Monday or Tuesday so that they can "*wade* through it," and determine upon what course of action they are going to take? If there is an adjournment for that purpose, it should be an adjournment for a week, and I doubt then if you get the evidence in time, so that you can go through with it. Of course I am finding no fault with the application for an adjournment, but I am trying to find fault with those whose duty it is to furnish us with the printed evidence in this case. Here are 264 pages of this printed now, including the documents, and there is probably five or six hundred pages of it in all. It will do no good to adjourn until Monday night, if that is the object, and I assume that it is. A longer adjournment will be necessary, if they expect to get the printed testimony.

Mr. McGUIRE — Mr. President, I will answer the Senator. One portion of the evidence, speaking for myself, that I wish to examine, I can find in the back reports of the Superintendent of the Bank Department. Report after report has been introduced here which I know nothing about, but which, between now and Sunday, at least, I can procure the annual reports of the superintendent, and see what reports were made in reference to these banks. That is one species of the evidence I wish to get.

Senator HAMMOND — Mr. President, I move the Senate adjourn, to meet here again at ten o'clock on Tuesday morning. If there is an adjournment taken until Monday afternoon, then there will be but very few Senators here at the opening of the session. They will come at night, and it would save time to adjourn to Tuesday morning. That is my judgment about it.

Senator STARBUCK — Mr. President, several of the Senators are unable to reach here, leaving their homes on Monday morning, in time for business purposes that day. I state this fact in aid of the motion of the Senator from the twenty-sixth, to adjourn to Tuesday morning at ten o'clock, and I suggest that if there be an adjournment at all, it be to a time as late as that.

Senator COLE — What time?

Senator STARBUCK — Tuesday morning, at 10 o'clock.

Senator COLE — That will do.

Senator WOODIN — Mr. President, the counsel for the defense has suggested that he can make the examination of these reports of the superintendent in the printed volume of reports. That is already printed; it is already here.

Mr. McGUIRE — I have not seen them, Mr. President ; I have not seen the reports of 1873, '4, '5 and '6 ; I have a report of 1877 here.

Senator WOODIN — Mr. President, that the reports of the Bank Department are here in Saratoga, and can be obtained and brought before the Senate, or furnished for the counsel for the defense, there cannot be any question. They are public documents ; there can be no question about that, and if they were not they can be produced here to-morrow morning, and if it is desirable that an adjournment be had to enable them to examine these reports, the Senate should adjourn until to-morrow morning, giving them to-day to examine those reports. If it is for the purpose of examining the printed oral testimony that has been taken, then my remarks have no application. But if it is for the purpose of examining the annual reports of the Superintendent of the Bank Department, that have been introduced here, it seems to me that an adjournment over until Monday or Tuesday morning is asking too much, and I want to hear further upon the subject before I move an amendment.

Mr. McGUIRE—Mr. President, I did not suppose I was understood as saying that was the only purpose for which we wanted an adjournment ; that it was to look at these reports. I said that was one species of evidence that we wished to examine. I have stated other reasons. I think that every lawyer knows that when three or four weeks, three weeks, nearly, has been taken in the examination of testimony, that a proper time on the part of the defense to examine the testimony, tends to shorten the investigation on the part of the defense, and makes it exceedingly more intelligible to those who wish to hear it, and more intelligent to counsel in the examination of witnesses. To proceed with the trial now, with the points, the evidence in proof in the mind of the counsel, their attention not being specifically called to the matter that they wish to answer, counsel would be struggling along, giving testimony immaterial here and immaterial there, and the whole thing would be a mass of unintelligible jargon, in all probability, before we got through. I spoke, Mr. President, more in the interest of economy of time, and in the economy of expense. There is some printed evidence already given that we wish to examine. There is some of the testimony that has been given I have seen printed, that we have a general outline of upon our desk. There is the record evidence, which takes some time for comparison. I referred to that as one part of the evidence which we wish to examine, and I regret that I was misunderstood that we wanted an adjournment for no other purpose only to look at the reports of the superintendent. That is a slight part of it.

Senator WOODIN—Mr. President, the counsel was not misunderstood, and no such statement was made by him, if he refers to me.

understood him to say that that was one of the reasons, and that was the only part of the evidence to which he made special reference. So much on that subject. Now, I have just another observation to make in regard to this, upon the question of a saving of time and expense. It is pretty late in the day to raise that question. If it had been suggested and talked about a little in the beginning, perhaps the State would have profited by the suggestion; but it is pretty late now; there will be no special economy, as I can readily see, by adjourning, and sending all the employees and Senators home; and yet, perhaps, that will be more economical than it would be for them to stay here. But there is no economy in that, or any economy to the State that I can see very readily. It cannot be so very important that there should be an adjournment over to next Tuesday, in order to qualify counsel to proceed with this case. It certainly is not as important to the respondent, nor is it so important in a public sense as a great many trials in which the counsel himself has been engaged, where stenographers alone have taken the evidence for weeks, and yet you have not heard of a case being adjourned after plaintiff got through that the evidence might be printed and laid before the counsel and before the jury before the defendant should proceed with his evidence. Now, the few points in this case are, I verily believe, settled and fixed in the minds of counsel, and in the minds of a majority of the Senate, and well understood, and it is not a difficult thing to determine, I insist upon it, for the counsel, what evidence they want—what answer they want to make by way of reply. It seems to me it is a very common-place matter. But the counsel may labor under some difficulty by reason of a want of familiarity with these documents to which he refers; but abundance of opportunity between now and to-morrow morning can be furnished him to examine those. And I move as an amendment, for the purpose of taking the sense of the Senate, that the Senate adjourn until to-morrow morning at ten o'clock; and if that is not carried, then I am indifferent as to what time it is adjourned to, whether it is one week or two; I think two would be better than one.

MR. TRACY—Mr. President, one of the witnesses who was examined here nearly at the end of the session this morning, after the adjournment came to us and to the stenographer and stated he thought he wanted to correct some expression in his testimony. He is fearful he had expressed himself in such a way as that it was not exactly true and before the adjournment is taken I desire to allow that witness to correct his testimony.

SENATOR WOODIN—Mr. President, then I modify the motion to the effect that *when* the Senate adjourn it be until to-morrow morning at 10 o'clock.

Senator STARBUCK—The motion of the Senator from the Twenty-fifth subserves my purpose, provided its effect, if it prevails will be to bring us to a more speedy determination of this trial than we are likely to otherwise reach. Nevertheless, I recognize that my individual convenience ought to yield to the rights of the accused. His counsel stand here; and, speaking for him, tell us that opportunity for consideration and examination to a time beyond 10 o'clock to-morrow morning they think essential to his rights. I accept, for the purpose of my motion, their assurance upon that subject. Yielding my own private convenience, to the rights of the respective parties. I think that the motion to adjourn until 10 o'clock to-morrow morning, in the face of the declarations made to us by the counsel for the accused, ought not to prevail. And when that is voted down, then we will determine upon what is a judicious time to which to adjourn the case, to the end that the counsel for the accused may perform their duty to him.

Senator HARRIS—It is an ungracious task to oppose an adjournment asked for by counsel for the respondent, but the reasons given by the counsel for an adjournment in connection with the history of this case, render it important that I should give a reason for my vote. So far as I recollect, there has been but one or two banks investigated here but what were the subject of investigations by the committee appointed by the Senate, and all of the banks that have been mentioned here were named in the proclamation of the Governor, and the documents accompanying them. The charges were then set forth, and it seems to me that not only the respondent, but the respondent's counsel, having from the time of the sending of that message to the Senate until the present time to inform themselves of the facts concerning the banks upon which charges were made, that they should have sufficiently informed themselves so as to be ready to proceed at once upon the resting of the prosecution. What are the facts here before us? They are nearly all founded upon reports in the office of the respondent—reports that have been brought here by his clerk. They are the reports of the bank, the reports of the examiners and by the Superintendent of the Bank Department. Nearly all the facts are in relation to those reports. Are the counsel for the respondent taken by surprise because those reports have been produced here? They will not claim it. No one can claim it. They certainly have been cognizant of all the facts contained in those reports, or else they have been derelict in their duty in defending the respondent. The facts outside of those reports that have been proved here are simple. There is not a Senator here who has listened to this testimony, but who has a general idea of the facts outside of the reports that have been proved here in regard to each one of these banks.

We have been here a few days over two weeks, but the first two or three days were taken up in preparing the issues for the judgment of the Senate. We have been here two weeks taking testimony and at great expense to the State, and at great detriment to the private interests of Senators. If we adjourn until Tuesday, we are to be here another week or more, whereas if we go on now we shall hasten the end of this trial. From my experience, I believe that no time will be gained by the proposed adjournment. The respondent is here, his clerks are here to meet the facts proved by the prosecution, therefore I shall vote for the amendment of the Senator from the Twenty-fifth.

Senator BRADLEY—Mr. President, I recognize fully the fact that the suggestion of the counsel upon a matter of this kind is entitled to some consideration, but in determining the question whether there shall be an adjournment until sometime next week, or until to-morrow morning, we are required, I suppose, to judge for ourselves whether there is a necessity for it. Now there is nothing very remarkable about the facts in this case ; those which are important are but few ; there may be, there are, perhaps, a few prominent facts developed by the testimony in this case ; those facts have been heard and understood by every Senator, and by the counsel on both sides, and it seems to me there can be no necessity to have the testimony printed that may be examined. If the examination of documents in the department is important, that examination can be had without adjourning this hearing until next week ; an hour and a-half's time will bring them from Albany here, and the tables and the reports. In view of the familiarity which the counsel for the respondent have of the facts in this case, the examination would occupy but a little time. I am unable to see any necessity—and it would be only a necessity that I could see—that would enable me to vote for an adjournment until next week. We have been engaged in this hearing for nearly three weeks ; the Senators have been here giving their attention to it ; their interests and the interests of the public should be entitled to some consideration when these interests do not conflict or prejudice those of the accused. It seems to me there can be no objection to adjourning until to-morrow morning ; documents can be here from Albany ; I am in favor of an adjournment until morning.

Senator COLE—Mr. President, the counsel for the defense in this case have asked for a delay, and it seems to me it is not extraordinary or uncommon. In cases involving as much of interest as this case does it seems to me that after the largest latitude that has been given to the people in presenting their charges, and the counsel for the defense asserting that they will be better prepared to present their side, saving to us time, and presenting the prominent points in the case

with such evidence as they may see fit to adduce, that it will shorten, very much, the proceedings. Now they suggest until Monday or Tuesday. That is not unreasonable. It seems to me it is not unreasonable that they should have the opportunity after we have waded through this mass of testimony that has been introduced, and the manner in which it has been introduced, when there is no man around this circle, in my judgment, that is able to grasp it and place it in a situation where it properly belongs in his mind. He may remember the general fact, but in order to a clear understanding of this case, and a proper decision of it, it seems to me so far as it regards the interests of the people, and so far as it regards the interests of the man who has his public character, as a public man, at stake before us, that he should not be circumscribed unnecessarily, and that the gate should not be shut down against him when he makes a reasonable request that he shall have time to put himself in shape to meet these charges. I hope, sir, that the time asked, until Tuesday morning, as suggested by the Senator from the Nineteenth, will prevail.

The President here submitted the motion of the Senator from the Twenty-fifth to amend so as to adjourn to to-morrow at 10 A. M., and it was declared lost.

The PRESIDENT—The motion now before the Senate is to adjourn until Tuesday morning at 10 o'clock.

Senator VEDDER—I move to amend that by making it Monday at 10 o'clock.

Senator KENNADAY—Mr. President, I understand the counsel for the respondent has requested that we take an adjournment until Tuesday morning, and he has plainly indicated that Tuesday was a good deal better than Monday, and it seems to me that is the question, whether we shall accede to the wishes of the counsel for the respondent. The counsel for the respondent are the only persons here to-day who can properly judge as to the proper time in which the defense can be ready to put forward its defense. It is not in the power of the Senators to do that. The counsel for the respondent is responsible for that, and they alone can form a proper judgment upon it. I so look upon this question simply in that view, they having made this request, and I shall vote in favor of Tuesday morning.

Senator STARBUCK—Mr. President, the suggestion made by me when up before is now timely and in point. If any Senator desires to return home he may do so, and be back here Tuesday morning at ten o'clock—starting from home on Monday. If it is determined that an adjournment must be had, until one day or the other, by all means let us regard this fact to which I draw attention, and let us, while we are about it, courteously, if I may say so, accede to the request of counsel for the accused.

The President submitted to the Senate the motion that, when the Senate adjourn, it be until Tuesday morning at ten o'clock, and it was declared carried.

Isaac Smith, being duly recalled on behalf of the State, testified as follows:

Examined by Mr. TRACY:

Q. Do you desire to make some modification of the testimony given by you this morning? A. Yes, sir.

Q. Do it? A. I was asked by the counsel for the accused, in substance, if I had informed the counsel for the state whether I had such a memorandum—whether there was in existence such an analysis as I was inquired about this morning of the July report of the Third Avenue Savings Bank; I did inform him there was such a memorandum or analysis; that he asked me to let him see it and I refused; I remembered the circumstance, after I left the stand, that he asked me to let him see it, and I remembered the refusal.

Q. That is the correction you want to make? A. Yes, sir.

Mr. McGUIRE—He did not tell you how he learned you had such an analysis? A. I told him that I had such an analysis.

Q. You told him, then, that you had it; I misunderstood you; I suppose he asked you if you had it; was it in the Bank Department at that time or at your house? A. I think it was at my house.

Q. You did not want to go to your house after it, I suppose? A. That was not the reason.

Q. You did not go to your house after it? A. Not then; I would like to state why it was at my house.

Mr. TRACY—You may do so.

A. Last spring I expected to be called to New York in the investigation, and I took that home with me, thinking I might be called, and I would go direct from the house without stopping at the department; that is the reason the paper was there.

Senator STARBUCK—Mr. President, I move the Senate now adjourn—Adjourned to Tuesday morning, August 7th—10 A. M.

SARATOGA SPRINGS, N. Y., *August 7, 1877.*

The Senate met pursuant to adjournment, at 10 A. M., a quorum present.

The PRESIDENT—The case will proceed.

Mr. McGUIRE—Mr. Ellis may take the stand.

De witt C. Ellis, being duly sworn on behalf of himself, testified :

Examined by Mr. McGUIRE:

Q. Mr. Ellis you are the Bank Superintendent, are you? A. I am.

Q. I will call your attention to some statements that have been made in regard to the Third Avenue Bank — not to go over your former testimony — these papers which Mr. Smith presented here claimed to have been made by him in 1873 — you may state whether you ever saw those papers? A. The first I ever saw them or heard of them was upon this trial here in Saratoga.

Senator SCHOONMAKER — What papers are those, Mr. McGuire?

Mr. McGUIRE — Papers which Smith produced; private memoranda that Smith produced here.

Q. Did you have any conversation with Mr. Smith in respect to this bank in September, 1873? A. I don't now recall any special conversation in regard to that bank; I think the bank was referred to in 1873, when that special examination was made, or when the examination was made by Mr. Reid, and a general history of it talked over in my office; I don't recall any distinct conversation with Mr. Smith about it any more than anybody else.

Q. What was the position of Smith in the Bank Department at that time? A. He was book-keeper and accountant; the same position he had when I went there; he kept the books of the department.

Q. Mr. Lamb at that time was the deputy, was he? A. He was; he was appointed deputy the 1st of May, '73, I think.

Q. The special examination of March, '73, made by Mr. Reid, Mr. Aldrich and others, that your attention was called to? A. Yes, sir; I read it; I read Mr. Reid's letter upon the subject.

Q. The letter accompanying the report? A. Yes, sir.

Q. Did you at that time, or had you learned in any way, through any thing in the Bank Department, or otherwise, that there was an additional \$15,000 to be put in of personal bonds of trustees? A. At that time that report was made, do you mean?

Q. Yes, sir; you see at that time Mr. Reid reports \$100,000 only of personal bonds — did you learn in any way that that sum was to be increased in any way to \$115,000? A. I knew the fact; I think I got it from the former deputy, who stayed with me some two or three months; that was talked over with him.

Q. Did that fact, in connection with the letter of Mr. Reid that men of wealth and influence had got control of the bank determine your action at that time, in a measure?

Mr. TRACY — I submit that if the learned counsel desires the witness to swear what controlled his action at a given time, he should ask him a question, and not make a statement to him what kind of

answer he wants him to make; it is not the case of a reluctant witness who is under cross-examination; it is his own party put upon the stand as his own witness, and he is entirely to tell the impression about what determined his action, without being led.

The PRESIDENT — It seems to the Chair that the question was somewhat leading.

Mr. MCGUIRE — That is true, in the ordinary sense. I will inquire because it may save some embarrassment hereafter, if the strict rules of examination in court about leading questions are to be enforced?

The PRESIDENT — The rule adopted by the Senate requires that all rules of procedure in relation to the examination of witnesses usual in courts of record shall be enforced here. That is the substance of the rule adopted by the Senate.

Mr. MCGUIRE — If that is to be enforced in this particular instance, and all through so, I will avoid asking leading questions hereafter.

The PRESIDENT — It seems to the Chair objectionable on the score of being leading.

Q. You may state, Mr. Ellis, knowing that fact and the contents of Reid's letter, what influenced your action in regard to that bank at that time?

Mr. TRACY — I shall not raise the objection, but at the Circuit Court, I will say, it would be rejected as a repetition of a leading question.

A. I had read Mr. Howell's report; all the facts that came to my knowledge, among which was the statement of Howell's official report to the Legislature of his action in regard to the Third Avenue Savings Bank, which stated that an examination had been made (a very exhaustive examination, by two experts), and that he had come to a certain conclusion, and adopted a certain course of policy; and it also appeared in his report to the Legislature that an offer had been made to close up the bank and appoint a receiver by some depositor, and the court refused to appoint a receiver; all that I had been over; that was one fact; the fact that there was an additional \$15,000 to be added to what was called the "deficiency bonds," or the "guarantee bonds," and the general tenor of Mr. Reid's statement that the bank was increasing in deposits, and showed a surplus of income, and was in the hands of good, strong men; that was the substance of it.

Q. And so on the small deficiency that was then reported by Mr. Reid, no action was taken by the department, was there—was there any action taken by the department on account of the small deficiency then reported by Mr. Reid? A. No, sir.

Q. And did not Mr. Reid's report at that time contain information that there was an excess of income? A. It did.

Q. A deficiency of assets—small? A. Yes, sir; and a small excess of income.

Q. I will call your attention to a conversation that you had with Mr. Cisco—state the conversation as you recollect it, and the purpose for which you had the conversation with him? A. Well, I met Mr. Cisco in his office in Wall street, I think the day or the day but one after the failure of Duncan, Sherman & Co.; I went to New York in regard to this matter of the Third Avenue Savings Bank, and left Albany, as I now recollect, the day they failed; that is, I learned the fact of their failure after I got there at night, by leaving in the afternoon train; and the next day, or the day but one, I called on several prominent bankers in Wall street to consult with them in regard to closing up the Third Avenue Savings Bank at that time; I had got to the point then to close it up; I met Mr. Cisco and told him that the bank was insolvent, and had got to be wound up; I didn't give him any figures, as I had none with me; I stated the fact distinctly that the bank was insolvent, and had got to be closed up; I came to consult with him as to the expediency of doing it at that time, in the present condition of the market at that time there; we went over the ground in a general way, and as he said here in substance, he advised quite positively that it should be delayed for some little time; some of the parties said until after the summer vacation; I don't know whether he was one that said that or not; I can't say positively; the idea was that the bank had a large amount of real estate—

Mr. TRACY—Please confine yourself as to what passed between you and Cisco as you have been examined in regard to the conversation with the other gentlemen before.

The WITNESS—That is the substance of what I talked with him.

Q. There is no pretense on your part that you had a copy of the report of the bank and read to Cisco? A. I had no papers there at all; when I went to New York I didn't go with the view as to taking their opinion as to the expediency of closing it up; that occurred after I got there.

Q. How many financial gentlemen did you converse with upon this subject while in New York at that time ('75) as to the expediency of closing up that bank.

Mr. TRACY—Mr. President: I beg to say if this is a process to give the evidence over again, that is one thing, and if it is to give additional evidence, then I have to state the objection here that Mr. Ellis was examined upon this whole subject, and his testimony was taken before the committee and is printed here; he mentioned several persons then and we have got no evidence upon the subject except of the testimony of Cisco alone; if it is to be done over again, the whole

one hundred and odd pages of his testimony is to be of no account, why, that is one view, but I suppose additional evidence that is to be given here only now and therefore it is not proper to ask him about his conversation with other gentlemen upon which subject he has been fully examined before; I object to the question.

The PRESIDENT—Your objection only relates to the fact that the witness has testified upon these points before.

Mr. TRACY—Yes, sir.

The PRESIDENT—I will say that I suppose it is not the intention of the counsel for the defense to enter at any length into any matters upon which the witness has testified before, but it seems to me that the counsel may have asked this question for the purpose of calling his attention to some matters, and, therefore, I am not inclined to reject the question.

Mr. McGUIRE — I will state this, Mr. President, if there is such a question asked upon the examination before, and the counsel call my attention to it, I will then withdraw it. I don't want to go over the testimony again.

Senator WOODIN — Oh, let us have the answer.

Mr. TRACY — Here it is, page 522, running on to the next page.

Mr. McGUIRE — This question don't purport to ask any conversation with these gentlemen. I don't propose to ask him what conversation he has had with A, B, C, and D.

Senator WOODIN — I understood the Chair has ruled in your favor, Mr. McGuire?

Q. [Question repeated.] A. I can't say distinctly, but I should think eight or ten — financial and business men.

Q. Did you learn from these gentlemen the sensitive condition —

The PRESIDENT [interrupting] — One moment, Mr. McGuire. That question is clearly a leading question.

Mr. McGUIRE— May be I am wrong, Mr. President. This witness upon the examination before the committee, gave the testimony of those persons in detail; I may be wrong in the rule of evidence; probably I am; but I had understood the rule of evidence to be this: that when you wish to prove a conversation with a party, to call the witness' attention to the subject matter upon which you wish him to testify, and then when the witness had stated all the conversation that he recollected, that then you may suggest to the witness.—

The PRESIDENT [interrupting] — Undoubtedly you may ask the general question, if the witness does not reach some matter which the counsel desires to draw out; then his attention may be called to the particular matter; this seems hardly to be within that rule; it seems to me the question here is: what did the witness learn from these gentlemen?

Mr. MCGUIRE — 'That he has stated ; if the Senate wish me to repeat it all again, why I will go over it.

Q. I will ask you the question suggested by the Chair — what did these gentlemen state, because I can't examine a witness without observing what I supposed was the rule in courts of law ; if I am mistaken in the idea, you will correct me now.

Senator WOODIN — Suppose you ask him what did these persons state in regard to the sensitive condition of the financial market.

Mr. MCGUIRE — Then I am informed by the Chair that the question is leading.

The PRESIDENT — No ; the counsel was proceeding to ask, "did you learn from these gentlemen about the sensitive condition ;" that was clearly a leading question.

Q. What did these gentlemen inform you then about the sensitive condition of the market at that time? A. They stated what was a well-known fact to everybody in New York at that time, that the market was very much excited ; the public mind was very much disturbed by this failure of Duncan, Sherman & Co., and there had been more or less of that feeling all through the summer ; there had been a good many failures in New York among brokers, and I think without exception —

Q. [Interrupting.] Now, you may state, Mr. Ellis, what you knew yourself as to the condition of the market, and what you were informed by those gentlemen, and what effect it had upon your judgment and your action in regard to the proceedings against this bank ?

A. As I stated, Wall street and Broad street were a mob that day ; intense excitement there.

Q. The question is what effect it had upon your judgment and action in regard to proceeding against the bank ? A. I was going on to state ; after consultation with the gentlemen whom I regarded as capable of giving intelligent advice upon a subject of that kind, I have no doubt it influenced my mind in regard to the delay ; in fact it did ; I acted upon their judgment in connection with my own.

Senator KENNADAY — I suggest that the witness speak a little louder, if possible ; every once in a while we lose a few words.

The WITNESS — I acted upon the opinion of these financial and business men that I conversed with ; it corresponded with my opinion of the subject at that time, and it seemed to be the exercise of good judgment to delay the closing up of that bank until the public mind was quiet ; I anticipated when that bank was closed it would be followed by the closing of a good many others, and subsequent events have shown that that anticipation was a correct one.

Q. From what you saw and from what you learned, you may state what conclusions you came to as to the effect upon other savings

banks and the money market, in case you proceeded summarily to close up that bank at that time? A. My judgment was that it would be very disastrous to the other institutions.

Q. In what respect? A. Causing a run and general panic; we had had one in '73, in New York city, where they had to take the sixty days' notice and stop paying; I said there had been a panic and a run on the banks in New York city in '73, and they were required to take the sixty days and stop payment quite generally; they had in Albany and other places; rather sharp run on the oldest bank in Albany, and they all required sixty days' notice before the payment of money.

Q. Then state what induced you to delay the proceeding against the bank, after the conversation with those gentlemen? A. The fact that I have stated that I thought it would work a great injury to the other banks; and the fact that a large amount of the assets of this bank consisted of real estate, which some of those gentlemen thought would bring more in the fall than in midsummer.

Q. Now, I call your attention to the Trades' Bank; now give a statement of your connection with that bank, from the time your attention was called to it until it was closed up, and state all the facts connected with it.

Senator PRINCE—Have you any objection to ask who those merchants were, or financial men were?

Mr. MCGUIRE—I think they appear in the case.

Q. You may repeat them? A. I talked with John A. Stewart, president of the United States Trust Company, Messrs. Hurburgher and Morrison, president and cashier of the Manhattan company, Mr. Kennedy; of the Bank of Commerce, Mr. Cisco; Mr. Macy, of the Seaman's Savings Bank, and, I think, Mr. Brown, of the Bowery; I can't say positive about him; Mr. Bunce, of the citizens; Gov. Dix and I don't recollect any other leading men.

Q. What was your purpose in talking with these gentlemen? A. It was to ascertain their views in regard to the expediency of summarily closing that bank at that time, and its effect upon other banks general conversation in regard to other institutions; the general policy of treating these institutions in such times; we went over the ground pretty thoroughly in some cases.

Q. Now you commence with the Trades' Bank? A. I think my attention was first called to it specifically when they had—I think the letter has been read here which Mr. Reid wrote to me saying that the officers of that bank had removed the secretary and that he had called in a policeman and taken charge of the safe over night, or something to that effect; that was the substance of it; and what would be done about it; I immediately went to New York.

Q. State what time that was? A. My recollection is that it was in the early part of 1874.

Q. The letter has been introduced in evidence has it? A. I think so.

Q. Before you state what occurred before you went to New York you may state whether this Trades' Bank at that time was a weak or a strong bank? A. Oh it was a very small bank; one of the smallest in the city.

Q. What was about the general line of its deposits when you first became acquainted with the bank? A. My recollection is—I speak now from recollection—but somewhere in the neighborhood of \$30,000.

Q. And did these deposits increase or diminish after that? A. They ran up to nearly \$160,000; they continued to increase until the closing up of the Third Avenue Bank; then it began to go backward and lose deposits.

Q. When your attention was first called to it by Mr. Reid, you may state, if you please, what you did when you went to New York? A. I went to New York to look into the matter; the complaint was not against the solvency of the bank, but against the management of it; against the conduct of the president; I met the secretary at the hotel, and he gave me a history of the proceedings; what the president had been doing and how he had been managing the bank, and why they removed him; I can state what the reason was he stated they removed him.

Q. If it is a part of the management, you may state it? A. Well, in the meeting he told the president and finance committee that they were a set of thieves and robbers, and were trying to steal that bank; that is as he stated and as they reported afterwards; thereupon they passed a resolution removing him from the position of secretary, and he immediately conferred with Mr. Reid, and Mr. Reid wrote me, and in consequence of that I went to New York.

Q. How long after the receipt of Mr Reid's letter before you went to New York? A. Very soon; I should say the next day.

Q. Now you may go on and state what condition you found it in? A. After this conversation with the secretary, I went up there and took Mr. Reid in and examined the officers under oath as to the history and business of the bank and what had been going on; spent considerable time over it, and went pretty thoroughly over it and satisfied myself who the parties were to blame in the matter; I found the president and finance committee of two or three were doing things in their own way without the knowledge of the board of trustees generally, I found no stealing of any money, but the president using it in his own interest; after the examination was concluded I gave them the

choice of being wound up and put into the hands of a receiver, or the president should resign from his position, and the finance committee should resign, and quite a number of the trustees whom I designated, and then the board should be filled up with good, responsible men, and the bank could go on a short time, or I should close it; I found the bank financially in very good condition for a small bank; it resulted in the president resigning, and the executive committee, and the then acting secretary, and some of the trustees, and the board was filled up with other men; I think Mr. Hawkins went into the board and Mr. Leslie at that time.

Q. Dexter A. Hawkins? A. Yes, sir.

Q. Any thing further at that time? A. Nothing that I now recollect; I have given the substance of what took place then.

Q. Did you, at that time, remedy the defects in the management of which Mr. Reid complained? A. Yes, sir.

Q. What is the next thing in the history of this bank that you wish to state? A. The bank went on seemingly prosperously, and increased largely its deposits, and had all the elements that a young bank could then of success, as I remember it, up to the time of the closing of the Third Avenue Savings Bank, when that bank and all of its class gradually lost deposits.

Q. Proceed to state just what the condition of the bank was thereafter, and what was done as far as fell under your observation. A. I don't remember any thing distinctly now, except the time Mr. Reid's examination in the fall of '75, was it; the papers will show; at any rate it was the time it was found there was a deficiency, and I made a requisition upon them to make it good or I should be obliged to close them up.

Q. It was October '75? A. Yes, sir.

Mr. McGUIRE — The letter was in October and the examination in November.

The WITNESS — The final letter was December twenty-fifth.

Mr. McGUIRE — It is on page 149.

Mr. TRACY — Two hundred and eighty-five is the letter spoken of.

Q. If you have any correspondance there refer to it. A. I see by Mr. Reid's report it was examined November twelfth, and the report came to me and was filed in the department December second, that year.

Q. You saw from that report a deficiency; state what you did in reference to that report? A. After the report was made (in fact, I think before I received it; I am not positive upon that point), the secretary came up to see me in regard to the matter and the condition of the bank, and I distinctly stated to him then that the trustees

would have to make up that if they wanted to continue business; he said they would, and expressed himself with great confidence that the bank would be made self-sustaining and would eventually succeed, and went back to do that I don't know that I had any correspondence with him until I sent him that communication in December — December 25.

Q. About what time was it that the secretary came to Albany, with reference to Mr. Reid's report and your letter of the twenty-fifth of December? A. He came prior to that letter of the twenty-fifth.

Q. I say what time (Reid reported on the twelfth of November) did Reid report immediately to your hand? A. Second of December.

Q. Was it after the report got to your hand that the secretary came? A. I am not positive about that; he came up after the examination, but just the date I can't recollect now.

Q. And then occurred what you have stated? A. Yes, sir.

Q. What was the object of writing the letter of the twenty-fifth of December? A. To know what they had done, and have the matter closed up one way or the other; have a final disposition made of it.

Mr. TRACY — That you state, was the object of your letter of the twenty-fifth of December?

The WITNESS — Yes, sir; to have a final disposition made of it; it hadn't been concluded at that time.

By Mr. McGUIRE:

Q. You understood at that time that the arrangement which the secretary had talked with you about had not been concluded? A. That is the way I understood it.

Q. That was the object of the writing of that letter? A. Yes, sir.

Q. What was the next thing in order? A. I received a telegram from the secretary, saying that they had put the bank in the shape required, and that they had made up the deficiency in substance.

Q. Did you have any information that they had, except the telegram from the secretary at that time? A. Yes, sir; Mr. Reid made an examination.

Q. At that time? A. Filed January fourteenth.

Mr. McGUIRE — Has that report been introduced here, Mr. Tracy?

Mr. TRACY — Yes, sir; it has.

Q. Does that report show that the deficiency has been made good? A. Yes, sir; it does.

Mr. TRACY — Page 161 of the trial, the letter shows for itself; I think you had not better examine him about the contents of the letter.

Mr. MCGUIRE—I don't suppose it is proper.

The PRESIDENT—Of course it is not. Go on with the examination, please.

Mr. MCGUIRE—I should probably say, by way of apology, because I want to keep within the strictest rules of evidence possible, but I notice, all the way through the trial, that my learned friend, without any objection from our side at least, would call examiners here and say: "Was that a true and correct report?" and, from the necessity of the case in an examination of this kind, I suppose you can see, Mr. President, that there will be, at times, a seeming departure from the strict rules of evidence; but if the counsel for the State insists upon the application of the strictest rules, why we will confine ourselves to it.

Mr. TRACY — I beg to say, Mr. President, perhaps not by way of exculpation, but by way of denial, that the counsel for the State did put the examiner on and produced his report, which was the writing which he sent back to his principal; and also examined him as a witness about what he saw in the bank, and what he found there, as independent of evidence; and no rule of taking testimony could be assigned as an objection to it. What he was and what he did he can narrate, and the written report which he sent in would show for itself. In this case, a letter came to Mr. Ellis.

Mr. MCGUIRE—I have got over that.

Mr. TRACY—I want to be understood right upon that question, and not to appear to be taking a frivolous objection. This letter is open to be read, and my inference is, that it is palpable that the deficit was not made up when the letter was written.

Mr. MCGUIRE—That is a matter of argument.

Mr. TRACY — I do not desire he should be called upon to interpret that letter.

The PRESIDENT—There is no doubt about what the rule of evidence is, and the counsel for the respondent is familiar with its application.

Q. I will ask you this, Mr. Ellis, what effect or influence upon your action and your judgment did this report of Reid's, of January 1876, have? A. To let the bank alone; the bank showed a deficiency, but it had been made up and a surplus added to it; if that report was true, I could not close it up and force it into liquidation.

Q. Did you rely upon the truth of the examiners' report in your action in the matter?

Mr. TRACY—We object to that.

Mr. MCGUIRE—I must insist upon that question.

The PRESIDENT—The question is somewhat leading, but not in a high degree objectionable, it seems to me.

Mr. TRACY—The letter concludes with this passage: “If the bonds and mortgages are good for the amount there will be a small surplus.”

The PRESIDENT—That is a matter for argument, Mr. Tracy.

Mr. TRACY — “Leslie was not in, but Freese says every thing has been done in good faith.”

The PRESIDENT — Comment of that sort will be in order at the proper time.

Q. Answer the question ? A. I relied upon the report, having no knowledge to the contrary.

Q. What was the next thing you heard in respect to this bank ?

By Senator COLE:

Q. I want to ask a question right there ; you say you relied upon the report ; did that report control your action as to what you would do, whether you would close it or not ? A. Certainty it did ; I acted upon that report as true, as I would on any other report that I didn't know to the contrary had been erroneously made.

Q. What you mean is that the report controlled your action ? A. Yes, sir.

By Mr. McGUIRE:

Q. That is the report of your examiner ? Yes, sir.

Q. What was the next thing in order in regard to this bank that fell under your observation, Mr. Ellis ? A. I think the next was (without looking at the papers) when it was closed up ; I think it was what took place in August following.

Q. Before you get to August I will call your attention to a letter of the 19th of January, 1876, from Reid ; have you that letter here ?

A. The papers are all here, I believe ; I will look for it ; I found the letter.

Q. What explanation have you to make about that letter of the nineteenth of January ? A. That is the letter where he expressed doubts as to the sale of the Beach street property ; he made an examination that I have referred to before, and afterwards he went there, it seems, and looked the matter over again ; he wasn't quite satisfied about that Beach street transaction, and he wrote this letter ; I saw him (Reid) very shortly after that in New York, and asked him what there was about that matter up there, and he told him to go up there and look over the matter himself, satisfy himself whether it was a genuine transaction ; this letter of January nineteenth refers to not finding the mortgages there, I think.

Q. Refers to several things ? A. Yes, sir.

Mr. TRACY — About the sale being a sham ?

The WITNESS — Yes, sir ; he did do so, and came back and said that he thought that the matter was right ; that they had made the sale, and the mortgage was left for record, or that in substance ; I can't give the language, but he complained of the books not being kept so he could get at matters readily as he could in other banks ; they were shorthanded and running the bank at little expense, and the books were not made very well, and entries were kept upon slips of paper, and subsequently entered, and he found more difficulty in arriving at a conclusion than if the books were more systematically kept, is the idea I got of it.

Q. How long after the nineteenth of January was that ? A. Very shortly ; I cannot give the exact date.

Q. After he reported to you as you have stated, state the next thing in order in regard to the bank ? A. Next thing I recall is what occurred in August of that year, when the bank was finally closed.

Q. Just refer to the first letter in July, of Reid's ? A. I don't find any such letter in July here ; I don't find any such letter ; the stenographer has got a few of these papers yet.

Q. You find a letter there of twenty-sixth of July — where were you at that time, Mr. Ellis ? A. I don't find that letter here.

Q. Were you at Albany or not — I thought you had got a letter of the twenty-sixth of July ? A. No, sir ; I haven't found it ; you refer to the transaction and I can't give the exact date of the transaction without the letter, but I was in Rochester at that time, at the time that transaction occurred ; the first part of it.

Q. Did Lamb forward you the letter received from Mr. Reid ? A. I had forgotten the fact, I presume he did.

Q. The bank then was passed over by Lamb to the Attorney-General in your absence ? A. Yes, sir.

Q. Upon learning the fact, did you approve the action of Mr. Lamb ? A. Yes, sir ; I did.

Q. Did you learn subsequently (that is, subsequently to the time the bank was handed over to the Attorney-General), that these Leslie mortgages had been recorded ? A. No, sir.

Q. When did you first learn the fact that they were recorded — that is the mortgages given by Leslie to Livingstone and assigned by Livingstone to the bank ? A. I never knew any thing about those mortgages ; that was all subsequent to our examinations ; the first I knew any thing about that was upon this investigation, or after the bank was closed up ; I will not say I learned —

Q. You read the letter of Mr. Lamb to the Attorney-General after your return to Albany ? A. Yes, sir.

Q. And didn't you learn from that, and in conversation with him, that the bank was put into the hands of the Attorney-General, upon

the ground that they could not find any title to these mortgages ? A. That appeared as one of the grounds ; as the papers show, there was quite a little negotiation going on after he commenced proceedings in regard to those mortgages and other matters of the bank ; they put in a defense and contested the appointment of a receiver for some little time.

Q. Did you learn subsequently, that those, of which Reid and Lamb complained, were subsequent to the time the bank was put into the hands of the Attorney-General, recorded ? A. Yes sir.

Q. You learned it sometime afterward ? A. Yes, sir.

Q. You say you regarded this bank, as one of the weak banks in New York at that time ? A. As one of the young, small banks.

Q. What were your instructions to Reid in regard to this and other banks of a similar character ? A. He had the general instructions to keep his eye on them, and if he discovered any thing that needed investigation to investigate, to keep a general watch ; we were in troublesome times.

Q. And report to you ? A. Yes, sir ; if he found any thing.

Q. Is there any other explanation you wish to make in regard to your action in respect to this Trades' Bank, and if so state it—aside from what you have stated, and what appears in the testimony before the committee ? A. I don't now recall any material fact in connection with it beyond what has been spoken of ; I would make one statement in regard to the letter sent me by Lamb, to Rochester ; I think I was in Rochester part of a week, and perhaps a week, when I went back I took the letter with me, as I now recollect, and put it where it belonged with the other letters of the office, and had some little conversation, with him on general matters ; I don't remember the exact conversation, and I told him to look to the matter, and I soon afterwards went away ; about the first of August, and was gone three or four weeks.

Q. You gave Lamb instructions to look to the matter in your absence ? A. Yes, sir ; there was a general understanding between my deputy and myself that he should do any thing in my absence that required to be done same as if I was there, which he has always done, as far as I know.

Q. Now you may state in regard to the People's Savings Bank, any thing else that you desire to state in addition to the proof already furnished in regard to that bank here ? A. I have not seen the testimony

Mr. TRACY—It is on page 288.

The WITNESS—On a report Mr. Reid and Mr. Smith made in the fall of 1875 I commenced proceedings to have a receiver appointed for that bank as appears by the papers in evidence ; that was in September, 1873 ; I made a recommendation to the Attorney-General to close it up ; the papers were served, but no injunction as I remember ; there was an

order to show cause why they should not be closed up; the bank officers (the president Mr Olmstead), and the secretary and one or two of the trustees immediately came to Albany and proposed to make up any existing deficiency and put the bank on a strong basis; they had just moved into their new location on Third avenue and said they had an eligible site for business and good neighborhood and good board of trustees and where bound to succeed, and talked as most all of these men do when they get into trouble and we had a conversation; I don't remember the details; I remember the substance; that was four years ago nearly; I consented, so far as I was concerned (the matter was then in the hands of the Attorney-General), if the Attorney-General saw fit, if they would; the department held, I can say, a bond of the trustees, which was taken by my predecessor, and that bond was a joint bond, as I remember it now, and not bearing interest; one trouble with the bank was that their assets were not interest bearing, and they didn't have a sufficiency of income; I required them to take out that bond and put in lieu of it individual bonds of the same character, made by different trustees of the bank, which should be interest bearing, and upon which the interest should be regularly paid so it would be a productive source of income, and also to replace any existing deficiency of bonds or mortgages or stocks or cash, such as the law permitted; they propose to do that; they ask for time to do it; immediately after that came on the crash in '73; the panic in October; they went to work and subscribed (my recollection is some \$85,000) in that form to make up the deficiency and to replace the old bonds with interest-bearing bonds; in the meantime the Attorney-General had received a formal answer and proceedings were suspended during these negotiations; it ended in their doing what they proposed to do, and the suit was discontinued, as appears by his books.

Q. Did you ever have any communication with the Attorney-General upon the subject, or he with you? A. Well, I don't remember; I presume we did have some; very likely did.

Q. But whatever it was the suit was no further prosecuted at that time? A. No, sir; it wasn't.

Q. Now, proceed with the history of it down through? A. After they had completed that making up of this deficiency and the changing of these bonds when I was in New York at that time (I don't know that I went specially for that); I went then and looked over the matter and saw their bonds, and all the parties who were in the original bond didn't enter into the new bond, and I retained the old bond holding those parties I think I retained the old bonds until the bank went into the hands of the receiver; the new bonds were made directly to the bank; I examined the mortgages that were put in and found they had made up, as they proposed to do, the whole deficiency, and something more.

Q. You became satisfied, from the examination you made, that the deficiency which was reported by Mr. Reid was made good? A. Yes, sir; I think it was fully.

Q. Go on; after that state what was done by you or Mr. Reid in connection with this bank? A. Mr. Reid and I went into the bank in the fall of that year, not as I recollect it, for the purpose of making an examination, but to look over their books and see how they were getting on; and I think we were up in that vicinity, but did not go up, perhaps, for that, and, without making any formal examination, I looked into the matter sufficiently, as I thought, to satisfy me that they were doing very well; they were in about the same shape they had been in the spring; no report was made to the department, and no statement was made in the bank; it seems that Reid afterwards, as he states, made up a statement, but I never saw it, and knew nothing about it; it was only a partial statement; he didn't have in any of the bonds which were in the Bank Department in that statement at all, and some other matters.

Q. Had you any knowledge of that statement of Reid's until he produced it upon the trial? A. No, sir; I never saw it or knew of it.

Q. Is not the fact that the bonds you held in the State Department would have wiped out the deficiency which appeared in the statement? A. Yes, sir; and more too; he hadn't that in at all.

Q. Is this one one of the banks that you gave Reid his general instructions to watch and look after? A. It was *any* of those banks; his instructions were general; he knew the class of banks referred to better than any man could know, perhaps; he had had more experience.

Q. Go on with the next thing in order? A. The next thing I recollect was the examination made when the bank was closed.

Q. State that date for convenience sake? A. The informal report by letter was made November 10, 1875; the formal report, which came in ordinary shape, I see was filed the twelfth of November.

Q. After receiving what you style the informal report, you may state what you did? A. I think I acted on the letter of November tenth, which contains a general statement of his examination, and what he finds.

Q. That is the letter appearing upon page 336 of this trial here? A. It is in evidence here as Exhibit 47.

Q. That is the informal examination? A. Not the informal examination, but the formal report; possibly then he had not concluded the examination.

By Mr. CHAPMAN:

Q. Then he had concluded the examination? A. Well, I find a telegram that I sent him to send up the formal report as soon as possible; I find in the November letter he says, "I have received your telegram and now inclose report."

By Mr. McGUIRE:

Q. You received this informal report and then telegraphed Reid to send the report up immediately? A. Yes, sir.

Q. Have you the answer to that from Reid? A. Yes, sir; that is the letter of November eleventh, upon page 336.

Q. Upon receiving this informal report what did you do? A. I made a communication the same morning to the Attorney-General asking him to close up that bank, stating that I had received official information upon which I based my application.

Q. Had you at that time received any thing from Mr. Reid except this informal report? A. No, sir.

Q. And when did you receive the informal report? A. My impression was I received it on the eleventh, but I see it is filed on the twelfth, and probably it was received that day.

Q. In your communication to the Attorney-General did you follow the figures embraced in the informal report of Mr. Reid? A. I followed the figures in his letter of November tenth, showing a certain deficiency.

Q. When the formal report was received, state what was done in regard to the complaint which the Attorney-General had prepared, and your notice which you had sent? A. My recollection is (it is mere recollection), the Attorney-General prepared a summons and complaint, and I swore to it and verified it, giving the figures as they appeared in the letter of the tenth of November; when the report came it varied from the figures in the letter slightly, and we had it corrected in the papers of the Attorney-General to correspond with the formal report.

Q. That is, the complaint was changed to correspond with the formal report? A. Yes, sir; it was all changed to correspond to correct the difference between his figures in his letter of November tenth and his report of November eleventh.

Q. And that is all there is about this change that has been so much talked about and evidence given about? A. Yes, sir.

Q. What are the figures to get them right here in juxtaposition in the letter of November tenth as communicated to you by Reid? A. The deficiency he makes \$40,226.88.

Q. Now what is the deficiency in the formal report which Reid

sent to you in answer to your telegram? A. The deficiency in the formal report he makes at \$42,779.96; it is a difference of two or three thousand dollars.

Q. Without going into any details unnecessarily, take the letter of November tenth, and state the amount of assets and the amount of liabilities, gross assets and gross liabilities? A. It is in different items; there is an item of assets \$97,454.83, and another of \$58,750.

Q. Does that constitute all the assets? A. That constitutes the assets.

Q. Now, then, the total liabilities? A. One hundred and ninety-six thousand four hundred and thirty-one dollars and seventy-one cents.

Q. Now take the gross amount of assets and liabilities in the formal report? A. He makes the assets \$157,351.83, liabilities \$196,431.79.

Q. After your letter to the Attorney-General, had you any further connection with that bank, or any business relations as superintendent of department? A. No, sir, when the bank goes into the hands of the court, I have no further supervision over it.

Q. Did you go to New York at the time that the receiver was appointed, for the purpose of taking an inventory of its assets which passed into the hands of the receiver? A. I went down under an order of the court.

Q. You went there with Mr. Wood, the receiver? A. No, sir, not Mr. Wood, Mr. French; the order required the receiver to deposit the assets of the bank in the United States Trust Company, in the presence of the Bank Superintendent; that required me or my deputy to go down and witness the transfer.

Q. That is what took you to New York at that time? A. Yes, sir.

Q. It was no control that you exercised over it, or assumed to exercise over it, as superintendent? A. No, sir, none whatever.

Q. It was simply obeying the order of the court? A. Yes, sir.

Q. Now, is there any other explanation, and if so, state it in regard to this bank? A. I don't think of any thing now.

Q. Did you go into that bank in New York at any time when you were there between the times of the regular reports of your examiner, or have any conversation with its officers or with Reid, the examiner? A. At what time?

Q. Say between 1873 and 1875? A. I can't say positively; I might and I might not.

Q. Did you see Reid often in regard to these banks, and ever converse with him as to their condition? A. Yes, sir, quite often; I would most always meet him when in New York, unless he was out in the country; he was generally in.

Q. Did you know Rodgers, the secretary? A. I only knew him as an officer of the bank.

Q. Did you ever converse with him, do you recollect, from time to time, in regard to its condition? A. I had a great deal of correspondence with him in the department in regard to it.

Q. That correspondence has been read? A. Yes, sir, it is all here; it has all been brought out, I believe.

Q. Have you looked it over to see whether there is any that has not been introduced? A. I think there are a great many letters here that have not been introduced, but they would be of no value perhaps to anybody in the case.

Q. Is there any explanation you desire to make further on the Mechanics and Traders' Bank, than what you gave upon your former examination? A. All the evidence given here of the receiver, of course, I know nothing about; when the receiver takes possession of the bank, my functions cease, and I know nothing about it except what I learned incidentally from hearsay.

Q. Same as anybody else? A. Yes, sir; what he does with the property, or what he gets for it, I know nothing about it; it turned out, I may state, by way of explanation, after he took possession of the bank, and after several months' work he discovered that the amounts standing on the books of the bank, due to the depositors were not correct; when we made the examination in 1874, when the complaint was made by two trustees, we assumed that the amount appearing upon the general ledger, was correct; we had to do that; we could not call in the pass books, and there was no way we could ascertain the truthfulness of the books without doing it; as the receiver swore, it took him months to do it.

Q. You assumed the amount due depositors was correctly shown by the ledger? A. Yes, sir, but it proved afterwards it wasn't true; that the ledger was incorrect.

Q. Now, I call your attention to the Loaners' Bank; let us see what there is about that pawn-shop concern? A. My attention was first called to that—I never knew there was such a concern until the law of 1874 was passed; we had no record of it in the office, and I had no knowledge of it.

Q. There was no report in the Bank Department? A. I was going to explain about that; when that act took effect we had to hunt up from any source we could what institutions would be embraced in the provisions of that act; by hunting through the Bankers' Magazine and other sources of information we discovered, among others, this Loaners' Bank.

Q. Did you find any record of such a bank in the Bank Department? A. No, sir.

Q. By reports or otherwise? A. No, sir.

Q. Then you went outside? A. Yes, sir; we hunted up the different institutions, and among others this Loaners' Bank; I asked Mr. Smith, who had been in the office for several years, what there was about that; we looked up the charter, and found it required them to make a report annually to the Bank Department; I asked Mr. Smith if had they ever had any reports, and he said one, a statement; it wasn't a regular report, but they sent up a statement; the law don't require what or how they shall report, but they shall make an annual report; I asked him what was done with it and he said nothing; he said Mr. Howell said he had nothing to do with pawnbrokers' shops, and that he had no power over that institution, and the report was laid away somewhere, and he didn't know where; that is the last that had ever been done.

Q. I want your action in regard to it, after you discovered the institution in the Banker' Magazine; when was your attention next called to it in any way? A. I examined the law at that time; I made up my mind we had no power to compel a report; no penalty attached, and no provision how they should report, and I could not find any law by which I could force a report, and I treated it as Howell treated it, by letting it alone until the question came up about the examination; the officers claimed we had no power under the law of 1875 to make an examination of that institution.

Q. Before you get to that, it seems that Senator Coleman, chairman of the bank committee of the Senate, called your attention to it? A. That was the time somebody had written to him in regard to it, and he wrote to me to ascertain why a report had not been made, or whether there had been a report made or not; I then sent a communication to Reid to go in there and make an examination, and test the question; we had an informal opinion of the Attorney-General.

Q. Had you asked the Attorney-General for an opinion upon the subject? A. Yes, sir.

Q. And was that opinion which the Attorney-General gave you, which was read here the other day? A. Yes, sir; Mr. Reid went there and undertook to make an examination; the president declined to allow him to make an examination; Mr. Reid wrote or telegraphed me, or both, the result, and asked me what he should do; I told him I would be in New York very shortly (in a day or two or a few days), and we would then look into the matter; I went down, and while there, I went with Mr. Reid on two occasions to the Loaners' Bank to make an examination; the first time the president talked in a general way; he said they were going to pay off all the depositors, and stop taking deposits; that within a week they would have the depositors paid off;

I told him I came there to make an examination of that institution and test this question, and he requested me to wait until he could get an opinion from Mr. Tracy, whom he said was eminent authority upon the subject of banking, and was so regarded in New York; he was their counsel; I asked him how long it would take to get that opinion, and he thought a day or two; I told him he could get his opinion and I would like to see it, but no matter what the opinion was, I proposed to test the question with the Attorney-General; I waited, and we went there on the morning agreed upon (I think the second day from that day), and he produced a written opinion, which I think has been exhibited here.

Mr. McGUIRE--Yes, sir, and read.

The WITNESS — I told him I would go back to Albany and show it to the Attorney-General, and let him take such action in the matter as he deemed advisable; if he coincided with the opinion of Mr. Tracy, probably no examination would be made, and if he did not, we should make one, probably; I think I was in New York two or three days afterward, and when I went up I took the papers with me; my impression now from the time the paper was handed to me in New York, within a week (that is my recollection — I am speaking from recollection as to dates) that the institution was in the hands of a receiver.

Q. By their own act? A. Yes, sir; at any rate before the opinion of the Attorney-General was obtained upon the matter, they had got the receiver, or made application for one.

Q. Did you solicit this opinion from Mr. Tracy? A. No, sir.

Q. Did you take that opinion to the Bank Department to be in antagonism to the opinion of the Attorney-General? A. No, sir; I took it back to show to the Attorney-General for his action.

Q. It was with the view of leaving it with the Attorney-General, and not to influence your action? A. None whatever; they wished to present us with the opinion of their counsel, I suppose, to convince me and the Attorney-General that we had no power to act; I suppose that was the object of their getting this opinion.

Q. But your action was based upon the opinion (whatever you did do or whatever was to be done), and upon what advice the Attorney-General gave or was to give in regard to the examination of that bank?

A. The opinion that the Attorney-General gave, was that the bank—not that we could examine the bank, but that they should make a report; my action was predicated more upon the letter of Senator Coleman than the opinion of the Attorney-General, because it was in regard to that particular point that he wanted information.

Q. Up to this time the Attorney-General had not been consulted as to your power to compel a report, but it was simply that they were

bound to make a report? A. Not during my term; I don't know about Howell's, of course.

Q. Now, in procuring this opinion, or rather taking this opinion with you to Albany, the purpose was to leave it with the Attorney-General? A. Yes, sir; that is all.

Q. For the purpose of determining the question as to your power to compel a report? A. That is all there was of it, sir; the whole of it.

Q. Or an examination? A. Yes, sir.

Mr. TRACY—Which does he mean, a report or an examination?

The WITNESS—It was to ascertain the opinion of the Attorney-General as to the power of the Banking Department over that Pawnors' Bank or Loaners' Bank, to cover the whole question.

Q. Reference is made in some of the papers, which have been read in evidence, about the opinion of the former Attorney-General, adverse to the power of the Bank Department over that institution; did you ever see that opinion? A. No, sir, I never saw it, but I was informed such an opinion had been rendered.

Q. By what Attorney-General? A. I think Mr. Champlain must have been Attorney-General.

Q. Either him or Barlow? A. Yes, sir; it must have been Barlow; I don't think any such opinion was filed.

Q. You know nothing about it except what you were told? A. No, sir, except what I was told by some of the officers of the company as to what the Attorney-General had held.

Q. Is there any further explanation you wish to make in regard to the bank, or have you stated all? A. I think I have stated the substance of it.

Q. The papers show that within less than a week after you were in New York it went into liquidation? A. I think it was a very brief time.

By the PRESIDENT:

Q. Did you give the date of your visit to New York to this bank? A. It was the date of the communication to Reid.

Mr. McGUIRE—The President will understand the difficulty of examining, not being an original examination, and I have to be exceedingly careful and not get any evidence that was before that committee.

Senator SCHOONMAKER—I don't understand there was any such distinction as that.

Mr. McGUIRE—I don't suppose the Senate would want to hear it over again; it would take up too much time; it might be well enough here to give the date here, as that point takes up much time; I don't want to duplicate the record.

Q. Have you the dates of the letters of Senator Coleman there, Mr.

Ellis? A. Yes, sir, there is one letter from Senator Coleman, of March 21, and another of March 7, 1876.

Q. It was soon after that last letter, of the twenty-sixth of March, that you went to New York, wasn't it? A. Tracy's opinion, which was prepared while I was in New York, as I was informed, is dated April 13, 1876, after these letters of Senator Coleman.

Q. By looking at the date of that opinion of Tracy, it satisfies you about the time you were in New York? A. I was there at that time.

Q. At the date of that opinion? A. Yes, sir, because they asked for this time for him to prepare the opinion, and I assume it was written while I was there.

Q. Can you state how long you remained in New York at that time—about how many days? A. No, sir, I can't definitely.

Q. Had you any business in New York at that time other than to see these bank officers about the examination of Reid—was that your exclusive business there at the time? A. I don't remember that now distinctly; that was the first business I did when I got there, any way.

Q. I will ask you a question in view of the question asked you by one of the Senators during the examination of this bank; did that opinion of Tracy's in any way influence your action in not making an examination of the bank at that time? A. He refused to have the examination made; I couldn't go in physically and make an examination.

Q. That opinion didn't influence your action at all, then? A. It didn't influence my action in regard to making the attempt to make an examination; I had no power to walk in there, I suppose, and take possession of the bank.

Q. What you intended to do you have explained? A. Yes, sir; was to move the Attorney-General in the matter to see whether we could or not.

Q. You may state a little more fully and in detail the conversation between you and the officers of the bank in respect to your right to make an examination; tell what occurred between you and the officers of the bank? A. They took the position—I can't give the language—that they did not come under the provisions of this law of '74; that we had no right to make an examination of the bank; they said, in general terms, that they didn't object to being examined except for some certain reasons; they thought it would prejudice their business, and that sort of thing; then I said, in substance, "You decline to be examined, then?" "Well," he says, "I don't want to say that exactly; but I would like to furnish you an opinion of Mr. Tracy, our counsel, and show that he has advised us that we are not subject to your examination;" and he asked for a day or two to produce it; I said I would wait and give him the opportunity to furnish any facts

or any law he wanted to, if he thought he could ; and I did wait one day, I think, and possibly two days ; he furnished the opinion which takes the ground we had no authority there, and no power ; then I said to Mr. Russell, “ you decline now to be examined ? ” he said, “ we shall act under the advice of our counsel ; you have his opinion here, and we shall act under his opinion ; ” then I said I would take the matter up to Albany and we would look into it further, and walked out ; that was the substance of the conversation and what took place, substantially.

Q. Did you understand the general character of their business before you went to New York ? A. Only as they had stated it to me.

Q. I say before you went at that time ? A. Yes, sir.

Q. And did you learn it more in detail after you arrived at New York ? A. Yes, sir ; I had quite a lengthy conversation during this time with the president, and he told me how they did their business ; he said the company was entirely solvent, and making money, and could pay all their depositors within a week, and should do so and stop taking deposits ; and, for any information I got there, I should have thought it was a very safe institution ; it turned out in a few days they were utterly insolvent, and in the hands of a receiver.

Q. The court, in the Loaners' case, made no order that the matter should be passed over in your presence, so you were not present when it was passed over ? A. I never have seen any of them, I think, from that time to this ; that order was not obtained from the Attorney-General ; it is one of his orders that I am obliged to be present there at the delivery.

Q. Go on with the Abingdon Square Savings Bank now ? A. I don't think of any thing, except what is contained in the papers here ; I don't recollect any particular circumstance or fact.

Q. Have you the correspondence, then ? A. Yes, sir.

Q. Proceed with your explanation of it ? A. Do you mean the correspondence between the bank and department ?

Q. State from your first acquaintance with the bank or any examination or conversation you had with any of the officers and its general condition ? A. I never saw one of the officers and I never was inside of the bank ; never, to my recollection, saw one of the officers ; all I know about it is shown by the letters and reports.

Q. Never had any conversation with officers ? A. Not to my recollection ; I don't think I ever saw one of them.

Q. How was this Abingdon Square ? A. One of the small banks.

Q. State how you came to pass that over to the Attorney-General ? A. It was upon the report of Reid's examination of August, '76, in which he shows a deficiency.

By Mr. CHAPMAN :

Q. That bank was handed over by Lamb before that was received, wasn't it, and Reid was allowed time to make examinations of that bank ? A. I think not.

By Mr. MCGUIRE :

Q. Look at the letter of July 19, '76 ? A. Here is the letter of July 19.

Q. See if it is not upon that letter that the bank was handed over to the Attorney-General ? A. I will find the recommendation, and that will show the date of it.

Mr. TRACY—The letter of July nineteenth is in the committee's testimony, at page 306.

Q. Look at the letter and see whether it was upon the information communicated by that letter that the bank was handed over to the Attorney-General ? A. Yes, sir ; I have a copy of that letter here, dated July 29, 1876 ; that is the letter from Henry L. Lamb, Deputy Superintendent, to the Attorney-General, recommending him to close up the Abingdon Square Bank.

Q. July nineteenth is Reid's letter ? A. Yes, sir, showing the condition of the bank at that time.

Q. Lamb's letter is the twenty-ninth of July ? A. Yes, sir.

Q. Were you in Albany at that time ? A. No, sir ; I think I went away about a day or two prior to that ; that is my best recollection now.

Q. Lamb communicated his action to you from time to time, I suppose, Mr. Ellis ; how is that fact ? A. No, sir ; when I happened to be away, if there was any thing of importance, he generally wrote me.

Q. Had you any knowledge of the facts stated in Reid's letter of the nineteenth of July, until that letter was received at the department, about these bogus checks, etc. ? A. No, sir.

Q. Or any reason to suspect that any such proceeding was going on at the bank until this letter was received ? A. That is my best recollection ; I don't know of any other fact looking that way.

Q. Is there any further explanation you desire to make in regard to that bank—any thing done by you after it was passed over to the Attorney-General ? A. No, Sir, I had nothing whatever to do with it after that.

Q. No interviews or correspondence with any officers of the bank after that time ? A. Nothing except what appears here.

Q. I say after it passed over into the Attorney-General's hands ? A. No, sir ; I never saw one of the officers since then or prior to that.

Q. What the receiver did have you any knowledge of ? A. No, sir,

none whatever, except from newspaper articles; I have no personal knowledge.

Q. Now state what your connection with the bank was as to the German Savings Bank of Morrisania, and your knowledge of any of its acts and your acts in respect to it? A. My attention was first specially called to this bank, I think, by the report of Mr. Reid; examination made the 15th of March, 1875, in which he speaks of the transactions of the former president in regard to loans made on Midland Railroad stocks and other securities, and the depreciation of those securities.

Q. Then you must state when your [attention was called to it by Mr. Reid, and what action was taken by the department? A. I think without any communication Mr. Reid stated to the officers of the bank—I think he so stated to me, and I think that was what induced the visit of the bank officers to the department to see me; don't remember writing or having any correspondence until they came there shortly after this examination was made; the president and attorney for the bank (Mr. Hall), and one or two of the trustees (that is my recollection), came up shortly after this examination was made about finding the condition of things, as reported by Mr. Reid, to see me in regard to it, and we had a long interview in which the same thing was done; I will state just what it was, as I remember it; I stated to them that they must take out these securities and replace them with good ones, and make up the deficiency, as appeared by the depreciation of those Midland bonds and others, or I should wind them up; they said they were prepared to do it, and that that bank could not be closed up and that they were going to sustain it at all hazards as a local institution, supported by Germans mostly, and they were all Germans, and went on to state who the trustees were and how much they were worth stating the president to be worth a million, and he said he would pay \$100,000 himself before that bank should be wound up, and that kind of talk generally; seemed full of pluck and spirit, and said this deficiency all grew out of the transactions of the president, who had originally made loans to these companies upon their collaterals and had afterward transferred unknown to the trustees—had exchanged these securities, which were good, for these that they then held.

Q. All these matters you speak of were under a former president?

A. Yes, sir.

Q. They had a new president in at the time of the conversation with you? A. Yes, sir; under the former superintendent; it was done before I was in the office.

Q. That is, these vicious practices you speak of were under your predecessor's administration of the bank department? A. The only

vicious practice I allude to, as I understand it, was the exchange by the president of good collaterals for others not as good.

Q. For poor ones? A. Yes, sir; as I understand it, it was not an investment, but they made a loan under the available fund clause, as other banks did all over the State at that time.

Q. That was under Mr. Howell's administration? A. Yes, sir, though under Mr. Schuyler, prior to mine, as I understood it.

Q. Now proceed? A. I think something was said at that time or some other time (I think, perhaps, at that time), that they would like to give their individual or trustee's bond; I am not positive whether that was stated at that time; I required them, as a condition of longer doing business, to put in, as assets of the bank, bonds and mortgages or other securities which the law permitted savings banks to hold.

Q. What information did you receive from them in reply to your demand? A. They agreed to do it at once; seemed anxious to do it; as I said before, expressed great confidence in the institution, and that they were bound to make it succeed, and they went away.

Q. That was sometime in the forepart of the year 1875? A. Yes, sir.

Q. When did you next receive any information respecting that bank? A. I had some letters during the season; I had one or two or more visits from the active man of the bank (Mr. Hall, the attorney); they seemed to put the business mainly of fixing this up into his hands, and I saw him from time to time; the amount was subscribed and paid in during the spring and summer, but not finally closed up until the fall; they went on first and made up some individual bonds, after the manner of some of these other banks that have been introduced in evidence here; I had forgotten that; the fact was communicated to me—I am giving this now from general recollection—and I refused to accept any personal bonds; that fact was communicated to the board of trustees, by Mr. Hall, and then they went on to make up the deficiency by giving bonds and mortgages and other securities.

Q. Did you understand that the deficiency was made good in 1875? A. Yes, sir, it was made good.

Q. When did any thing in regard to the bank next come to your knowledge, that your attention was specially called to? A. Not until it was closed up, as I remember, except what is shown by the records.

Q. It is stated that Gen. Sigel called to see you in respect to it? A. Gen. Sigel and two or three others of the trustees came to see me at the time I recommended the Attorney-General to close it up; they stated, in substance, that while there was no regular run on the bank there seemed to be a gradual withdrawing of the deposits; they thought at that time if they could have time enough they could pay in full, but they couldn't realize, as fast as the deposits would be wanted, as

they anticipated from the few months prior to that, and thought it better for the depositors of the bank to go into the hands of a receiver rather than the deposits to be drawn out, and finally nothing left but unavailable assets.

Q. About what time was that interview with Sigel? A. It was just prior to the recommendation ; perhaps the same day or the day before, whatever that day is.

Q. That is this present year? A. Yes, sir; I had a good deal of confidence in these men, and the first I had seen of the men is when they came into the office there; I was much impressed with the appearance of the men and their apparent sincerity of action.

Q. Have you any correspondence from any quarter showing what the wish of the depositors was? A. I think there are some letters here; I know the fact that there was —

Mr. TRACY—The question is about correspondence.

Q. I will keep the question separate; have you any information as to what the wish of the depositors was in regard to putting the bank into the hands of a receiver?

Mr. TRACY—Mr. President, I raise the point if that was communicated to him by a writing we should see the writing and not take his parol interpretation of the writing. There was some mention of this before, and the writings have not been seen yet. Let the question be put and the letters drawn out if he has them.

The PRESIDENT—The point is very well taken.

Mr. McGUIRE—It would have been very well taken if I had asked him to state the contents of the letter, but I have not asked the witness to give the contents of any paper at all. I suppose it is competent for me to ask a witness the general question as to whether he has any information. If the other side wish to find out whether it is in writing or not, they can ask the question preliminarily. At least that is my understanding of the practice in court, by which this Senate is to be guided in its proceedings.

The PRESIDENT—The Chair understands if the answer must necessarily relate to the contents of the paper, that the paper must be produced.

Mr. McGUIRE—Suppose that (*I don't suppose it*) the Chair may have information which I have not?

The PRESIDENT—None at all. The question may be put to the witness, whether his answer will relate to the contents of the paper.

Mr. McGUIRE—That is for them.

The PRESIDENT—Counsel may put that question.

Mr. McGUIRE—By me?

The PRESIDENT—Either of the counsel.

Mr. TRACY—The thing came up in this way: He began by asking the witness if he had any letters of that kind, and then swayed his question over to cover the information of that sort, and finally the question was put in this shape, not calling for an answer of “yes” or “no,” or asking whether he had any information, so he might say “yes, I have,” or “no, I have not,” but asking him what information he had. That is the form in which the question is put now. He don’t ask him “Have you any information?” He has already answered that he had; that he had some letters. If they exhaust the letters we will show whether he had any other information, and canvass the validity of that by itself.

Mr. McGUIRE—I have not put any question that admits of a categorical answer. I have been admonished by the objections of my learned friend, and by the instruction of the Chair, that I must not put questions that admit of an answer “yes” or “no,” of course I have avoided all that. The way the question arose was this: I asked Mr. Ellis if he had any correspondence by which he ascertained the wish of depositors in regard to whether the bank should be put into the hands of a receiver or not, and Mr. Ellis thought there were some letters, or correspondence; he thought so, and there I dropped it. I don’t know whether there is or not. Then I put the question, “have you any information as to what the wish of the depositors was in the respect indicated?” and then comes in the objection.

The PRESIDENT—If that does not call for the contents of a written instrument, then the question is admissible; if it does, then the question is inadmissible.

Mr. McGUIRE—Certainly; I would not ask him to give parol evidence of a paper—

The PRESIDENT—We shall soon ascertain what the fact is.

Mr. McGUIRE—If the counsel will waive his objection I can put questions that admit of “yes” or “no,” and we can get along pretty fast.

Mr. TRACY—I have never make an objection, sir, to asking a witness the question whether he had any knowledge upon a certain thing; that is one thing, but to specify the kind of knowledge is another.

The PRESIDENT—The witness will not state any thing as to the contents of the letters, without producing them. Go on, Mr. McGuire.

Q. Now, I will put a little addition upon the question, Mr. Ellis; have you any information outside of any correspondence as to what the wish of the depositors was, leaving out of your answer any reference to any letters? A. I have.

Q. Now what was that information?

Mr. TRACY—I object to that. He has not indicated the source from which it was derived, whether from a newspaper, from a conversation, or from a formal presentation.

The PRESIDENT—He may show it was not from hearsay.

Q. From whom was that information derived, then? A. The Attorney-General and the attorney of the bank.

Mr. McGUIRE—Now the evidence must necessarily be hearsay.

Q. I asked you now what the information was?

Mr. TRACY—From the Attorney-General.

Mr. McGUIRE—From both.

Mr. TRACY—The witness has sworn to the whole of the information derived from Mr. Hall. Still, if there is any additional matter he may answer in regard to it.

The PRESIDENT—It may not always be possible to avoid something that is in a printed case, and considerable liberality has been shown from the beginning of the trial in that respect. Counsel, of course, on both sides will be careful not to delay the Senate by reproducing at large, testimony now in the printed book.

Q. Take first the conversation with Hall and what information you derived from him in regard to the wish of the depositors? A. He stated to me that the depositors had held several meetings, and a large proportion of the depositors, representing a large proportion of the liabilities of the bank, had signed a petition addressed to the Attorney-General, requesting him not to appoint a receiver, and agreeing to take seventy-five cents on the dollar for their claims, and leave it in the bank without interest for one year, if the bank was allowed to go on; that was the substance of what he stated to me.

Q. When was that? A. That was after proceedings had been taken and an injunction order—

Q. And before a receiver was appointed? A. Yes, sir; after the injunction was served.

Q. At this time the matter was in the hands of the Attorney-General? A. Yes, sir.

Q. After this conversation with Mr. Hall, did you have an interview with the Attorney-General? A. Yes, sir; on several occasions.

Q. In this particular, to which your attention has been called? A. Yes, sir.

Q. What information did the Attorney-General give you upon the subject? A. He stated the same thing, in substance, and asked me what I thought about it; he had delayed action at their request, and was then delaying action.

Q. And how long was it before a receiver was appointed after the Attorney-General commenced the suit against the bank? A. Some

months ; several months ; I don't recollect now ; some time ; I am not exactly sure about that.

Q. Did you learn from the Attorney-General that he had the petition of which you speak from the depositors ? A. Yes, sir ; as I recollect it ; at any rate, he stated the fact that they had petitioned him.

Q. Can you state, Mr. Ellis, whether you learned the fact that when the receiver was appointed that he was appointed by a vote of the depositors ? A. The Attorney-General so stated ; he said he was going to try an experiment in the way of appointing receivers, and went on with quite a lengthy conversation ; that he proposed to let the depositors vote according to the amount they had there for the choice of a receiver, and asked my opinion as to what I thought about it.

Q. If you can state, I wish you would, why this request of the depositors not to put the bank into the hands of a receiver was not granted ?

Mr. TRACY — I beg to say, as I understand the witness, this request was as to the appointment of a receiver.

Mr. MCGUIRE — Oh, no ; subsequent to the commencement of the suit, but months before the appointment of a receiver.

Mr. TRACY — All right ; put the question then.

Q. If you can state state ? A. I can give the substance of the conversation between the Attorney-General and myself and his deputy upon this subject ; when the matter first came up as to this petition, and whether it would be a good thing to do, and all that, the Attorney-General asked me what I thought about it, and I told him I didn't think it would work ; that I had never known a bank where public confidence had been as much impaired as this ever to recover from it ; even if they recovered and went on they couldn't get the depositors back ; that when confidence was destroyed the bank was destroyed.

Q. The bank was destroyed ? A. Yes, sir ; that is all the capital they had ; but they were so anxious to have it tried, and depositors seemed to be so well satisfied with the integrity of the officers of the bank and the trustees, that they entered into this arrangement and they were getting up at that time this petition and adding to it ; they were trying to see how many could be got upon it until they got a very large proportion of the depositors.

Q. But the arrangement was never consummated, it seems ? A. It never was consummated ; finally the Attorney-General concluded, and I guess the officers of the bank, that we had better go on and have it wound up ; I think they became convinced it would not work.

Q. Have you any further explanation to give in regard to that matter — your answer in connection with it, or have you stated all your connection with it and its officers after this report of Mr. Reid's of

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